

IV-1

1 **TITLE IV—INDIAN, NATIVE HA-**  
2 **WAIAN, AND ALASKA NATIVE**  
3 **EDUCATION**

4 **Subtitle A—Elementary and**  
5 **Secondary Education Act of 1965**

6 **SEC. 401. AMENDMENTS.**

7 Part A of title IX of the Elementary and Secondary  
8 Education Act of 1965 (20 U.S.C. 7801 et seq.) is amend-  
9 ed to read as follows:

10 **“PART A—INDIAN EDUCATION**

11 **“SEC. 9101. FINDINGS.**

12 “Congress finds that—

13 “(1) the Federal Government has a special re-  
14 sponsibility to ensure that educational programs for  
15 all American Indian and Alaska Native children and  
16 adults—

17 “(A) are based on high-quality, inter-  
18 nationally competitive content standards and  
19 student performance standards and build on In-  
20 dian culture and the Indian community;

21 “(B) assist local educational agencies, In-  
22 dian tribes, and other entities and individuals in  
23 providing Indian students the opportunity to  
24 achieve such standards; and



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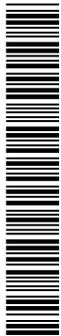
1           “(C) meet the unique educational and cul-  
2           turally related academic needs of American In-  
3           dian and Alaska Native students;

4           “(2) since the date of enactment of the initial  
5           Indian Education Act in 1972, the level of involve-  
6           ment of Indian parents in the planning, develop-  
7           ment, and implementation of educational programs  
8           that affect such parents and their children has in-  
9           creased significantly, and schools should continue to  
10          foster such involvement;

11          “(3) although the number of Indian teachers,  
12          administrators, and university professors has in-  
13          creased since 1972, teacher training programs are  
14          not recruiting, training, or retraining a sufficient  
15          number of Indian individuals as educators to meet  
16          the needs of a growing Indian student population in  
17          elementary, secondary, vocational, adult, and higher  
18          education;

19          “(4) the dropout rate for Indian students is un-  
20          acceptably high; 9 percent of Indian students who  
21          were eighth graders in 1988 had dropped out of  
22          school by 1990;

23          “(5) during the period from 1980 to 1990, the  
24          percentage of Indian individuals living at or below  
25          the poverty level increased from 24 percent to 31



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1 percent, and the readiness of Indian children to  
2 learn is hampered by the high incidence of poverty,  
3 unemployment, and health problems among Indian  
4 children and their families; and

5 “(6) research related specifically to the edu-  
6 cation of Indian children and adults is very limited,  
7 and much of the research is of poor quality or is fo-  
8 cused on limited local or regional issues.

9 **“SEC. 9102. PURPOSE.**

10 “(a) PURPOSE.—It is the purpose of this part to sup-  
11 port the efforts of local educational agencies, Indian tribes  
12 and organizations, postsecondary institutions, and other  
13 entities to meet the unique educational and culturally re-  
14 lated academic needs of American Indians and Alaska Na-  
15 tives, so that such students can achieve to the same chal-  
16 lenging State performance standards expected of all stu-  
17 dents.

18 “(b) PROGRAMS.—This part carries out the purpose  
19 described in subsection (a) by authorizing programs of di-  
20 rect assistance for—

21 “(1) meeting the unique educational and cul-  
22 turally related academic needs of American Indians  
23 and Alaska Natives;

24 “(2) the education of Indian children and  
25 adults;





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1 whom the agency provided free public education,  
2 during the preceding fiscal year—

3 “(A) was at least 10; or

4 “(B) constituted not less than 25 percent  
5 of the total number of individuals enrolled in  
6 the schools of such agency.

7 “(2) EXCLUSION.—The requirement of para-  
8 graph (1) shall not apply in Alaska, California, or  
9 Oklahoma, or with respect to any local educational  
10 agency located on, or in proximity to, a reservation.

11 “(b) INDIAN TRIBES.—

12 “(1) IN GENERAL.—If a local educational agen-  
13 cy that is eligible for a grant under this subpart  
14 does not establish a parent committee under section  
15 9114(c)(4) for such grant, an Indian tribe that rep-  
16 represents not less than one-half of the eligible Indian  
17 children who are served by such local educational  
18 agency may apply for such grant.

19 “(2) SPECIAL RULE.—The Secretary shall treat  
20 each Indian tribe applying for a grant pursuant to  
21 paragraph (1) as if such Indian tribe were a local  
22 educational agency for purposes of this subpart, ex-  
23 cept that any such tribe is not subject to section  
24 9114(c)(4), section 9118(c), or section 9119.



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1 **“SEC. 9113. AMOUNT OF GRANTS.**

2 “(a) AMOUNT OF GRANT AWARDS.—

3 “(1) IN GENERAL.—Except as provided in sub-  
4 section (b) and paragraph (2), the Secretary shall  
5 allocate to each local educational agency which has  
6 an approved application under this subpart an  
7 amount equal to the product of—

8 “(A) the number of Indian children who  
9 are eligible under section 9117 and served by  
10 such agency; and

11 “(B) the greater of—

12 “(i) the average per-pupil expenditure  
13 of the State in which such agency is lo-  
14 cated; or

15 “(ii) 80 percent of the average per-  
16 pupil expenditure in the United States.

17 “(2) REDUCTION.—The Secretary shall reduce  
18 the amount of each allocation determined under  
19 paragraph (1) in accordance with subsection (e).

20 “(b) MINIMUM GRANT.—

21 “(1) IN GENERAL.—Notwithstanding subsection  
22 (e) of this section, a local educational agency or an  
23 Indian tribe (as authorized under section 9112(b))  
24 that is eligible for a grant under section 9112, and  
25 a school that is operated or supported by the Bureau  
26 of Indian Affairs that is eligible for a grant under



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1 subsection (d), that submits an application that is  
2 approved by the Secretary, shall, subject to appro-  
3 priations, receive a grant under this subpart in an  
4 amount that is not less than \$3,000.

5 “(2) CONSORTIA.—Local educational agencies  
6 may form a consortium for the purpose of obtaining  
7 grants under this subpart.

8 “(3) INCREASE.—The Secretary may increase  
9 the minimum grant under paragraph (1) to not  
10 more than \$4,000 for all grantees if the Secretary  
11 determines such increase is necessary to ensure the  
12 quality of the programs provided.

13 “(c) DEFINITION.—For the purpose of this section,  
14 the term ‘average per-pupil expenditure of a State’ means  
15 an amount equal to—

16 “(1) the sum of the aggregate current expendi-  
17 tures of all the local educational agencies in the  
18 State, plus any direct current expenditures by the  
19 State for the operation of such agencies, without re-  
20 gard to the sources of funds from which such local  
21 or State expenditures were made, during the second  
22 fiscal year preceding the fiscal year for which the  
23 computation is made; divided by

24 “(2) the aggregate number of children who  
25 were included in average daily attendance for whom



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1 such agencies provided free public education during  
2 such preceding fiscal year.

3 “(d) SCHOOLS OPERATED OR SUPPORTED BY THE  
4 BUREAU OF INDIAN AFFAIRS.—(1) Subject to subsection  
5 (e), in addition to the grants awarded under subsection  
6 (a), the Secretary shall allocate to the Secretary of the  
7 Interior an amount equal to the product of—

8 “(A) the total number of Indian children en-  
9 rolled in schools that are operated by—

10 “(i) the Bureau of Indian Affairs; or

11 “(ii) an Indian tribe, or an organiza-  
12 tion controlled or sanctioned by an Indian  
13 tribal government, for the children of that  
14 tribe under a contract with, or grant from,  
15 the Department of the Interior under the  
16 Indian Self-Determination Act or the Trib-  
17 ally Controlled Schools Act of 1988; and

18 “(B) the greater of—

19 “(i) the average per-pupil expenditure  
20 of the State in which the school is located;  
21 or

22 “(ii) 80 percent of the average per-  
23 pupil expenditure in the United States.

24 “(2) Any school described in paragraph (1)(A) that  
25 wishes to receive an allocation under this subpart shall



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1 submit an application in accordance with section 9114,  
2 and shall otherwise be treated as a local educational agen-  
3 cy for the purpose of this subpart, except that such school  
4 shall not be subject to section 9114(c)(4), section 9118(c),  
5 or section 9119.

6 “(e) RATABLE REDUCTIONS.—If the sums appro-  
7 priated for any fiscal year under section 9162(a) are insuf-  
8 ficient to pay in full the amounts determined for local edu-  
9 cational agencies under subsection (a)(1) and for the Sec-  
10 retary of the Interior under subsection (d), each of those  
11 amounts shall be ratably reduced.

12 **“SEC. 9114. APPLICATIONS.**

13 “(a) APPLICATION REQUIRED.—Each local edu-  
14 cational agency that desires to receive a grant under this  
15 subpart shall submit an application to the Secretary at  
16 such time, in such manner, and containing such informa-  
17 tion as the Secretary may reasonably require.

18 “(b) COMPREHENSIVE PROGRAM REQUIRED.—Each  
19 application submitted under subsection (a) shall include  
20 a comprehensive program for meeting the needs of Indian  
21 children served by the local educational agency, including  
22 the language and cultural needs of the children, that—

23 “(1) provides programs and activities to meet  
24 the culturally related academic needs of American  
25 Indian and Alaska Native students;



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1           “(2)(A) is consistent with State and local plans  
2           under other provisions of this Act; and

3           “(B) includes academic content and student  
4           performance goals for such children, and bench-  
5           marks for attaining such goals, that are based on  
6           the challenging State standards under title I;

7           “(3) explains how Federal, State, and local pro-  
8           grams, especially under title I, will meet the needs  
9           of such students;

10          “(4) demonstrates how funds made available  
11          under this subpart will be used for activities de-  
12          scribed in section 9115;

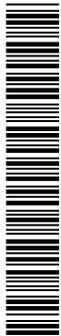
13          “(5) describes the professional development op-  
14          portunities that will be provided, as needed, to en-  
15          sure that—

16                 “(A) teachers and other school profes-  
17                 sionals who are new to the Indian community  
18                 are prepared to work with Indian children; and

19                 “(B) all teachers who will be involved in  
20                 programs assisted under this subpart have been  
21                 properly trained to carry out such programs;

22                 and

23          “(6) describes how the local educational  
24          agency—



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1           “(A) will periodically assess the progress of  
2 all Indian children enrolled in the schools of the  
3 local educational agency, including Indian chil-  
4 dren who do not participate in programs as-  
5 sisted under this subpart, in meeting the goals  
6 described in paragraph (2);

7           “(B) will provide the results of each as-  
8 sessment referred to in subparagraph (A) to—

9                   “(i) the committee of parents de-  
10 scribed in subsection (c)(4); and

11                   “(ii) the community served by the  
12 local educational agency; and

13           “(C) is responding to findings of any pre-  
14 vious assessments that are similar to the as-  
15 sements described in subparagraph (A).

16           “(c) ASSURANCES.—Each application submitted  
17 under subsection (a) shall include assurances that—

18                   “(1) the local educational agency will use funds  
19 received under this subpart only to supplement the  
20 level of funds that, in the absence of the Federal  
21 funds made available under this subpart, such agen-  
22 cy would make available for the education of Indian  
23 children, and not to supplant such funds;

24                   “(2) the local educational agency will submit  
25 such reports to the Secretary, in such form and con-



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1 taining such information, as the Secretary may re-  
2 quire to—

3 “(A) carry out the functions of the Sec-  
4 retary under this subpart; and

5 “(B) determine the extent to which funds  
6 provided to the local educational agency under  
7 this subpart are effective in improving the edu-  
8 cational achievement of Indian students served  
9 by such agency;

10 “(3) the program for which assistance is  
11 sought—

12 “(A) is based on a comprehensive local as-  
13 sessment and prioritization of the unique edu-  
14 cational and culturally related academic needs  
15 of the American Indian and Alaska Native stu-  
16 dents to whom the local educational agency is  
17 providing an education;

18 “(B) will use the best available talents and  
19 resources, including individuals from the Indian  
20 community; and

21 “(C) was developed by such agency in open  
22 consultation with parents of Indian children  
23 and teachers, and, if appropriate, Indian stu-  
24 dents from secondary schools, including public  
25 hearings held by such agency to provide the in-



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1 individuals described in this subparagraph a full  
2 opportunity to understand the program and to  
3 offer recommendations regarding the program;  
4 and

5 “(4) the local educational agency developed the  
6 program with the participation and written approval  
7 of a committee—

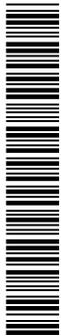
8 “(A) that is composed of, and selected  
9 by—

10 “(i) parents of Indian children in the  
11 local educational agency’s schools and  
12 teachers; and

13 “(ii) if appropriate, Indian students  
14 attending secondary schools;

15 “(B) a majority of whose members are  
16 parents of Indian children;

17 “(C) that sets forth such policies and pro-  
18 cedures, including policies and procedures relat-  
19 ing to the hiring of personnel, as will ensure  
20 that the program for which assistance is sought  
21 will be operated and evaluated in consultation  
22 with, and with the involvement of, parents of  
23 the children, and representatives of the area, to  
24 be served;



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1           “(D) with respect to an application de-  
2           scribing a schoolwide program in accordance  
3           with section 9115(c), has—

4                   “(i) reviewed in a timely fashion the  
5                   program; and

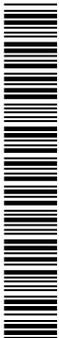
6                   “(ii) determined that the program will  
7                   not diminish the availability of culturally  
8                   related activities for American Indians and  
9                   Alaskan Native students; and

10           “(E) has adopted reasonable bylaws for  
11           the conduct of the activities of the committee  
12           and abides by such bylaws.

13   **“SEC. 9115. AUTHORIZED SERVICES AND ACTIVITIES.**

14           “(a) GENERAL REQUIREMENTS.—Each local edu-  
15           cational agency that receives a grant under this subpart  
16           shall use the grant funds, in a manner consistent with the  
17           purpose specified in section 9111, for services and activi-  
18           ties that—

19                   “(1) are designed to carry out the comprehen-  
20                   sive program of the local educational agency for In-  
21                   dian students, and described in the application of  
22                   the local educational agency submitted to the Sec-  
23                   retary under section 9114(b);



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1           “(2) are designed with special regard for the  
2           language and cultural needs of the Indian students;  
3           and

4           “(3) supplement and enrich the regular school  
5           program of such agency.

6           “(b) PARTICULAR ACTIVITIES.—The services and ac-  
7           tivities referred to in subsection (a) may include—

8           “(1) culturally related activities that support  
9           the program described in the application submitted  
10          by the local educational agency;

11          “(2) early childhood and family programs that  
12          emphasize school readiness;

13          “(3) enrichment programs that focus on prob-  
14          lem-solving and cognitive skills development and di-  
15          rectly support the attainment of challenging State  
16          content standards and State student performance  
17          standards;

18          “(4) integrated educational services in combina-  
19          tion with other programs that meet the needs of In-  
20          dian children and their families;

21          “(5) career preparation activities to enable In-  
22          dian students to participate in programs such as the  
23          programs supported by the Carl D. Perkins Voca-  
24          tional and Technical Education Act of 1998, includ-



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1 ing programs for tech-prep, mentoring, and appren-  
2 ticeship;

3 “(6) activities to educate individuals concerning  
4 substance abuse and to prevent substance abuse;

5 “(7) the acquisition of equipment, but only if  
6 the acquisition of the equipment is essential to meet  
7 the purpose described in section 9111; and

8 “(8) family literacy services.

9 “(c) SCHOOLWIDE PROGRAMS.—Notwithstanding  
10 any other provision of law, a local educational agency may  
11 use funds made available to such agency under this sub-  
12 part to support a schoolwide program under section 1114  
13 if—

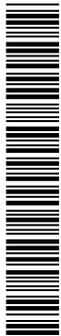
14 “(1) the committee composed of parents estab-  
15 lished pursuant to section 9114(c)(4) approves the  
16 use of the funds for the schoolwide program; and

17 “(2) the schoolwide program is consistent with  
18 the purpose described in section 9111.

19 “(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not  
20 more than 5 percent of the funds provided to a grantee  
21 under this subpart for any fiscal year may be used for  
22 administrative purposes.

23 **“SEC. 9116. INTEGRATION OF SERVICES AUTHORIZED.**

24 “(a) PLAN.—An entity receiving funds under this  
25 subpart may submit a plan to the Secretary for the inte-



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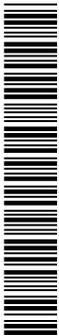
1 gration of education and related services provided to In-  
2 dian students.

3       “(b) COORDINATION OF PROGRAMS.—Upon the re-  
4 ceipt of an acceptable plan, the Secretary, in cooperation  
5 with each Federal agency providing grants for the provi-  
6 sion of education and related services to the applicant,  
7 shall authorize the applicant to coordinate, in accordance  
8 with such plan, its Federally funded education and related  
9 services programs, or portions thereof, serving Indian stu-  
10 dents in a manner that integrates the program services  
11 involved into a single, coordinated, comprehensive pro-  
12 gram and reduces administrative costs by consolidating  
13 administrative functions.

14       “(c) PROGRAMS AFFECTED.—The funds that may be  
15 consolidated in a demonstration project under any such  
16 plan referred to in subsection (b) shall include any Federal  
17 program, or portion thereof, under which the applicant is  
18 eligible for receipt of funds under a statutory or adminis-  
19 trative formula for the purposes of providing education  
20 and related services which would be used to serve Indian  
21 students.

22       “(d) PLAN REQUIREMENTS.—For a plan to be ac-  
23 ceptable pursuant to subsection (b), it shall—

24               “(1) identify the programs or funding sources  
25               to be consolidated;



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1           “(2) be consistent with the purposes of this sec-  
2           tion authorizing the services to be integrated in a  
3           demonstration project;

4           “(3) describe a comprehensive strategy which  
5           identifies the full range of potential educational op-  
6           portunities and related services to be provided to as-  
7           sist Indian students to achieve the goals set forth in  
8           this subpart;

9           “(4) describe the way in which services are to  
10          be integrated and delivered and the results expected  
11          from the plan;

12          “(5) identify the projected expenditures under  
13          the plan in a single budget;

14          “(6) identify the local, State, or Tribal agency  
15          or agencies to be involved in the delivery of the serv-  
16          ices integrated under the plan;

17          “(7) identify any statutory provisions, regula-  
18          tions, policies, or procedures that the applicant be-  
19          lieves need to be waived in order to implement its  
20          plan;

21          “(8) set forth measures of student achievement  
22          and performance goals designed to be met within a  
23          specified period of time; and



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1           “(9) be approved by a parent committee formed  
2           in accordance with section 9114(e)(4), if such a  
3           committee exists.

4           “(e) PLAN REVIEW.—Upon receipt of the plan from  
5           an eligible entity, the Secretary shall consult with the Sec-  
6           retary of each Federal department providing funds to be  
7           used to implement the plan, and with the entity submit-  
8           ting the plan. The parties so consulting shall identify any  
9           waivers of statutory requirements or of Federal depart-  
10          mental regulations, policies, or procedures necessary to en-  
11          able the applicant to implement its plan. Notwithstanding  
12          any other provision of law, the Secretary of the affected  
13          department or departments shall have the authority to  
14          waive any regulation, policy, or procedure promulgated by  
15          that department that has been so identified by applicant  
16          or department, unless the Secretary of the affected depart-  
17          ment determines that such a waiver is inconsistent with  
18          the intent of this subpart or those provisions of the statute  
19          from which the program involved derives its authority  
20          which are specifically applicable to Indian students.

21          “(f) PLAN APPROVAL.—Within 90 days after the re-  
22          ceipt of an applicant’s plan by the Secretary, the Secretary  
23          shall inform the applicant, in writing, of the Secretary’s  
24          approval or disapproval of the plan. If the plan is dis-  
25          approved, the applicant shall be informed, in writing, of



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1 the reasons for the disapproval and shall be given an op-  
2 portunity to amend its plan or to petition the Secretary  
3 to reconsider such disapproval.

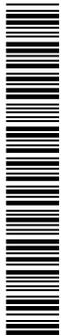
4 “(g) RESPONSIBILITIES OF DEPARTMENT OF EDU-  
5 CATION.—Not later than 180 days after the date of enact-  
6 ment of the Student Results Act of 1999, the Secretary  
7 of Education, the Secretary of the Interior, and the head  
8 of any other Federal department or agency identified by  
9 the Secretary of Education, shall enter into an inter-  
10 departmental memorandum of agreement providing for  
11 the implementation of the demonstration projects author-  
12 ized under this section. The lead agency for a demonstra-  
13 tion program under this section shall be—

14 “(1) the Secretary of the Interior, in the case  
15 of applicant meeting the definition of contract or  
16 grant school under title XI of the Education Amend-  
17 ments of 1978; or

18 “(2) the Secretary of Education, in the case of  
19 any other applicant.

20 “(h) RESPONSIBILITIES OF LEAD AGENCY.—The re-  
21 sponsibilities of the lead agency shall include—

22 “(1) the use of a single report format related  
23 to the plan for the individual project which shall be  
24 used by an eligible entity to report on the activities  
25 undertaken under the project;



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1           “(2) the use of a single report format related  
2           to the projected expenditures for the individual  
3           project which shall be used by an eligible entity to  
4           report on all project expenditures;

5           “(3) the development of a single system of Fed-  
6           eral oversight for the project, which shall be imple-  
7           mented by the lead agency; and

8           “(4) the provision of technical assistance to an  
9           eligible entity appropriate to the project, except that  
10          an eligible entity shall have the authority to accept  
11          or reject the plan for providing such technical assist-  
12          ance and the technical assistance provider.

13          “(i) REPORT REQUIREMENTS.—A single report for-  
14          mat shall be developed by the Secretary, consistent with  
15          the requirements of this section. Such report format, to-  
16          gether with records maintained on the consolidated pro-  
17          gram at the local level shall contain such information as  
18          will allow a determination that the eligible entity has com-  
19          plied with the requirements incorporated in its approved  
20          plan, including the demonstration of student achievement,  
21          and will provide assurances to each Secretary that the eli-  
22          gible entity has complied with all directly applicable statu-  
23          tory requirements and with those directly applicable regu-  
24          latory requirements which have not been waived.



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1       “(j) NO REDUCTION IN AMOUNTS.—In no case shall  
2 the amount of Federal funds available to an eligible entity  
3 involved in any demonstration project be reduced as a re-  
4 sult of the enactment of this section.

5       “(k) INTERAGENCY FUND TRANSFERS AUTHOR-  
6 IZED.—The Secretary is authorized to take such action  
7 as may be necessary to provide for an interagency transfer  
8 of funds otherwise available to an eligible entity in order  
9 to further the purposes of this section.

10       “(l) ADMINISTRATION OF FUNDS.—

11               “(1) IN GENERAL.—Program funds shall be ad-  
12 ministered in such a manner as to allow for a deter-  
13 mination that funds from specific program or pro-  
14 grams are spent on allowable activities authorized  
15 under such program, except that the eligible entity  
16 shall determine the proportion of the funds granted  
17 which shall be allocated to such program.

18               “(2) SEPARATE RECORDS NOT REQUIRED.—  
19 Nothing in this section shall be construed as requir-  
20 ing the eligible entity to maintain separate records  
21 tracing any services or activities conducted under its  
22 approved plan to the individual programs under  
23 which funds were authorized, nor shall the eligible  
24 entity be required to allocate expenditures among  
25 such individual programs.



## IV-23

1       “(m) OVERAGE.—All administrative costs may be  
2 commingled and participating entities shall be entitled to  
3 the full amount of such costs (under each program or de-  
4 partment’s regulations), and no overage shall be counted  
5 for Federal audit purposes, provided that the overage is  
6 used for the purposes provided for under this section.

7       “(n) FISCAL ACCOUNTABILITY.—Nothing in this  
8 part shall be construed so as to interfere with the ability  
9 of the Secretary or the lead agency to fulfill the respon-  
10 sibilities for the safeguarding of Federal funds pursuant  
11 to the Single Audit Act of 1984.

12       “(o) REPORT ON STATUTORY OBSTACLES TO PRO-  
13 GRAM INTEGRATION.—

14               “(1) PRELIMINARY REPORT.—Not later than 2  
15 years after the date of the enactment of the Student  
16 Results Act of 1999, the Secretary of Education  
17 shall submit a preliminary report to the Committee  
18 on Health, Education, Labor, and Pensions of the  
19 Senate and the Committee on Education and the  
20 Workforce of the House of Representatives on the  
21 status of the implementation of the demonstration  
22 program authorized under this section.

23               “(2) FINAL REPORT.—Not later than 5 years  
24 after the date of the enactment of the Student Re-  
25 sults Act of 1999, the Secretary of Education shall



## IV-24

1 submit a report to the Committee on Health, Edu-  
2 cation, Labor, and Pensions of the Senate and the  
3 Committee on Education and the Workforce of the  
4 House of Representatives on the results of the im-  
5 plementation of the demonstration program author-  
6 ized under this section. Such report shall identify  
7 statutory barriers to the ability of participants to in-  
8 tegrate more effectively their education and related  
9 services to Indian students in a manner consistent  
10 with the purposes of this section.

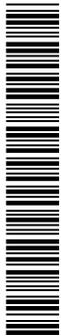
11 “(p) DEFINITIONS.—For the purposes of this section,  
12 the term ‘Secretary’ means—

13 “(1) the Secretary of the Interior, in the case  
14 of applicant meeting the definition of contract or  
15 grant school under title XI of the Education Amend-  
16 ments of 1978; or

17 (2) the Secretary of Education, in the case of  
18 any other applicant.

19 **“SEC. 9117. STUDENT ELIGIBILITY FORMS.**

20 “(a) IN GENERAL.—The Secretary shall require that,  
21 as part of an application for a grant under this subpart,  
22 each applicant shall maintain a file, with respect to each  
23 Indian child for whom the local educational agency pro-  
24 vides a free public education, that contains a form that  
25 sets forth information establishing the status of the child



IV-25

1 as an Indian child eligible for assistance under this sub-  
2 part and that otherwise meets the requirements of subsec-  
3 tion (b).

4 “(b) FORMS.—

5 “(1) IN GENERAL.—The form described in sub-  
6 section (a) shall include—

7 “(A) either—

8 “(i)(I) the name of the tribe or band  
9 of Indians (as described in section  
10 9161(3)) with respect to which the child  
11 claims membership;

12 “(II) the enrollment number estab-  
13 lishing the membership of the child (if  
14 readily available); and

15 “(III) the name and address of the  
16 organization that maintains updated and  
17 accurate membership data for such tribe or  
18 band of Indians; or

19 “(ii) if the child is not a member of  
20 a tribe or band of Indians, the name, the  
21 enrollment number (if readily available),  
22 and the organization (and address thereof)  
23 responsible for maintaining updated and  
24 accurate membership rolls of any parent or



## IV-26

1 grandparent of the child from whom the  
2 child claims eligibility;

3 “(B) a statement of whether the tribe or  
4 band of Indians with respect to which the child,  
5 parent or grandparent of the child claims mem-  
6 bership is federally recognized;

7 “(C) the name and address of the parent  
8 or legal guardian of the child;

9 “(D) a signature of the parent or legal  
10 guardian of the child that verifies the accuracy  
11 of the information supplied; and

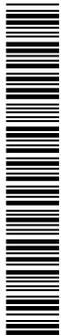
12 “(E) any other information that the Sec-  
13 retary considers necessary to provide an accu-  
14 rate program profile.

15 “(2) MINIMUM INFORMATION.—In order for a  
16 child to be eligible to be counted for the purpose of  
17 computing the amount of a grant award made under  
18 section 9113, an eligibility form prepared pursuant  
19 to this section for a child shall include—

20 “(A) the name of the child;

21 “(B) the name of the tribe or band of Indi-  
22 ans (as described in section 9161(3)) with re-  
23 spect to which the child claims eligibility; and

24 “(C) the dated signature of the parent or  
25 guardian of the child.



## IV-27

1           “(3) FAILURE.—The failure of an applicant to  
2           furnish any information described in this subsection  
3           other than the information described in paragraph  
4           (2) with respect to any child shall have no bearing  
5           on the determination of whether the child is an eligi-  
6           ble Indian child for the purposes of determining the  
7           amount of a grant award made under section 9113.

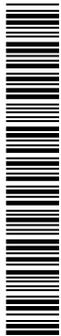
8           “(c) STATUTORY CONSTRUCTION.—Nothing in this  
9           section shall be construed to affect a definition contained  
10          in section 9161.

11          “(d) FORMS AND STANDARDS OF PROOF.—The  
12          forms and the standards of proof (including the standard  
13          of good faith compliance) that were in use during the  
14          1985–1986 academic year to establish the eligibility of a  
15          child for entitlement under the Indian Elementary and  
16          Secondary School Assistance Act shall be the forms and  
17          standards of proof used—

18                 “(1) to establish such eligibility; and

19                 “(2) to meet the requirements of subsection (a).

20          “(e) DOCUMENTATION.—For purposes of deter-  
21          mining whether a child is eligible to be counted for the  
22          purpose of computing the amount of a grant under section  
23          9113, the membership of the child, or any parent or  
24          grandparent of the child, in a tribe or band of Indians  
25          may be established by proof other than an enrollment



## IV-28

1 number, notwithstanding the availability of an enrollment  
2 number for a member of such tribe or band. Nothing in  
3 subsection (b) shall be construed to require the furnishing  
4 of an enrollment number.

5 “(f) MONITORING AND EVALUATION REVIEW.—

6 “(1) IN GENERAL.—(A) For each fiscal year, in  
7 order to provide such information as is necessary to  
8 carry out the responsibility of the Secretary to pro-  
9 vide technical assistance under this subpart, the Sec-  
10 retary shall conduct a monitoring and evaluation re-  
11 view of a sampling of the recipients of grants under  
12 this subpart. The sampling conducted under this  
13 subparagraph shall take into account the size of the  
14 local educational agency and the geographic location  
15 of such agency.

16 “(B) A local educational agency may not be  
17 held liable to the United States or be subject to any  
18 penalty, by reason of the findings of an audit that  
19 relates to the date of completion, or the date of sub-  
20 mission, of any forms used to establish, before April  
21 28, 1988, the eligibility of a child for entitlement  
22 under the Indian Elementary and Secondary School  
23 Assistance Act.



## IV-29

1           “(2) FALSE INFORMATION.—Any local edu-  
2           cational agency that provides false information in an  
3           application for a grant under this subpart shall—

4                   “(A) be ineligible to apply for any other  
5           grant under this part; and

6                   “(B) be liable to the United States for any  
7           funds that have not been expended.

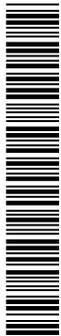
8           “(3) EXCLUDED CHILDREN.—A student who  
9           provides false information for the form required  
10          under subsection (a) shall not be counted for the  
11          purpose of computing the amount of a grant under  
12          section 9113.

13          “(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—  
14          Notwithstanding any other provision of this section, in  
15          awarding funds under this subpart to a tribal school that  
16          receives a grant or contract from the Bureau of Indian  
17          Affairs, the Secretary shall use only one of the following,  
18          as selected by the school:

19                   “(1) A count of the number of students in those  
20          schools certified by the Bureau.

21                   “(2) A count of the number of students for  
22          whom the school has eligibility forms that comply  
23          with this section.

24          “(h) TIMING OF CHILD COUNTS.—For purposes of  
25          determining the number of children to be counted in calcu-



## IV-30

1 lating the amount of a local educational agency's grant  
2 under this subpart (other than in the case described in  
3 subsection (g)(1)), the local educational agency shall—

4           “(1) establish a date on, or a period not longer  
5 than 31 consecutive days during which, the agency  
6 counts those children, so long as that date or period  
7 occurs before the deadline established by the Sec-  
8 retary for submitting an application under section  
9 9114; and

10           “(2) determine that each such child was en-  
11 rolled, and receiving a free public education, in a  
12 school of the agency on that date or during that pe-  
13 riod, as the case may be.

14 **“SEC. 9118. PAYMENTS.**

15           “(a) IN GENERAL.—Subject to subsections (b) and  
16 (c), the Secretary shall pay to each local educational agen-  
17 cy that submits an application that is approved by the Sec-  
18 retary under this subpart the amount determined under  
19 section 9113. The Secretary shall notify the local edu-  
20 cational agency of the amount of the payment not later  
21 than June 1 of the year for which the Secretary makes  
22 the payment.

23           “(b) PAYMENTS TAKEN INTO ACCOUNT BY THE  
24 STATE.—The Secretary may not make a grant under this  
25 subpart to a local educational agency for a fiscal year if,



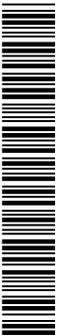
## IV-31

1 for such fiscal year, the State in which the local edu-  
2 cational agency is located takes into consideration pay-  
3 ments made under this subpart in determining the eligi-  
4 bility of the local educational agency for State aid, or the  
5 amount of the State aid, with respect to the free public  
6 education of children during such fiscal year or the pre-  
7 ceding fiscal year.

8       “(c) REDUCTION OF PAYMENT FOR FAILURE TO  
9 MAINTAIN FISCAL EFFORT.—

10           “(1) IN GENERAL.—The Secretary may not pay  
11 a local educational agency the full amount of a grant  
12 award determined under section 9113 for any fiscal  
13 year unless the State educational agency notifies the  
14 Secretary, and the Secretary determines, that with  
15 respect to the provision of free public education by  
16 the local educational agency for the preceding fiscal  
17 year, that the combined fiscal effort of the local edu-  
18 cational agency and the State, computed on either a  
19 per student or aggregate expenditure basis was not  
20 less than 90 percent of the amount of the combined  
21 fiscal effort, computed on the same basis, for the  
22 second preceding fiscal year.

23           “(2) FAILURE TO MAINTAIN EFFORT.—If, for  
24 any fiscal year, the Secretary determines that a local  
25 educational agency failed to maintain the fiscal ef-



## IV-32

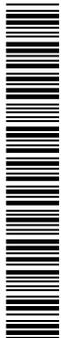
1 fort of such agency at the level specified in para-  
2 graph (1), the Secretary shall—

3 “(A) reduce the amount of the grant that  
4 would otherwise be made to such agency under  
5 this subpart in the exact proportion of such  
6 agency’s failure to maintain its fiscal effort at  
7 such level; and

8 “(B) not use the reduced amount of the  
9 agency’s expenditures for the preceding year to  
10 determine compliance with paragraph (1) for  
11 any succeeding fiscal year, but shall use the  
12 amount of expenditures that would have been  
13 required to comply with paragraph (1).

14 “(3) WAIVER.—(A) The Secretary may waive  
15 the requirement of paragraph (1), for not more than  
16 one year at a time, if the Secretary determines that  
17 the failure to comply with such requirement is due  
18 to exceptional or uncontrollable circumstances, such  
19 as a natural disaster or a precipitous and unforeseen  
20 decline in the agency’s financial resources.

21 “(B) The Secretary shall not use the reduced  
22 amount of such agency’s expenditures for the fiscal  
23 year preceding the fiscal year for which a waiver is  
24 granted to determine compliance with paragraph (1)  
25 for any succeeding fiscal year, but shall use the



## IV-33

1 amount of expenditures that would have been re-  
2 quired to comply with paragraph (1) in the absence  
3 of the waiver.

4 “(d) REALLOCATIONS.—The Secretary may reallo-  
5 cate, in a manner that the Secretary determines will best  
6 carry out the purpose of this subpart, any amounts that—

7 “(1) based on estimates made by local edu-  
8 cational agencies or other information, the Secretary  
9 determines will not be needed by such agencies to  
10 carry out approved programs under this subpart; or

11 “(2) otherwise become available for reallocation  
12 under this subpart.

13 **“SEC. 9119. STATE EDUCATIONAL AGENCY REVIEW.**

14 “Before submitting an application to the Secretary  
15 under section 9114, a local educational agency shall sub-  
16 mit the application to the State educational agency, which  
17 may comment on such application. If the State educational  
18 agency comments on the application, it shall comment on  
19 all applications submitted by local educational agencies in  
20 the State and shall provide those comments to the respec-  
21 tive local educational agencies, with an opportunity to re-  
22 spond.



## IV-34

1 **“Subpart 2—Special Programs and Projects To Im-**  
2 **prove Educational Opportunities for Indian**  
3 **Children**

4 **“SEC. 9121. IMPROVEMENT OF EDUCATIONAL OPPORTUNI-**  
5 **TIES FOR INDIAN CHILDREN.**

6 “(a) PURPOSE.—

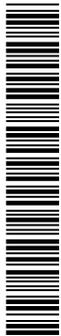
7 “(1) IN GENERAL.—It is the purpose of this  
8 section to support projects to develop, test, and dem-  
9 onstrate the effectiveness of services and programs  
10 to improve educational opportunities and achieve-  
11 ment of Indian children.

12 “(2) COORDINATION.—The Secretary shall take  
13 such actions as are necessary to achieve the coordi-  
14 nation of activities assisted under this subpart  
15 with—

16 “(A) other programs funded under this  
17 Act; and

18 “(B) other Federal programs operated for  
19 the benefit of American Indian and Alaska Na-  
20 tive children.

21 “(b) ELIGIBLE ENTITIES.—For the purpose of this  
22 section, the term ‘eligible entity’ means a State edu-  
23 cational agency, local educational agency, Indian tribe, In-  
24 dian organization, federally supported elementary and sec-  
25 ondary school for Indian students, Indian institution, in-



## IV-35

1 cluding an Indian institution of higher education, or a con-  
2 sortium of such institutions.

3 “(c) GRANTS AUTHORIZED.—

4 “(1) IN GENERAL.—The Secretary shall award  
5 grants to eligible entities to enable such entities to  
6 carry out activities that meet the purpose specified  
7 in subsection (a)(1), including—

8 “(A) innovative programs related to the  
9 educational needs of educationally disadvan-  
10 taged children;

11 “(B) educational services that are not  
12 available to such children in sufficient quantity  
13 or quality, including remedial instruction, to  
14 raise the achievement of Indian children in one  
15 or more of the core academic subjects of  
16 English, mathematics, science, foreign lan-  
17 guages, art, history, and geography;

18 “(C) bilingual and bicultural programs and  
19 projects;

20 “(D) special health and nutrition services,  
21 and other related activities, that address the  
22 unique health, social, and psychological prob-  
23 lems of Indian children;

24 “(E) special compensatory and other pro-  
25 grams and projects designed to assist and en-



## IV-36

1 courage Indian children to enter, remain in, or  
2 reenter school, and to increase the rate of sec-  
3 ondary school graduation;

4 “(F) comprehensive guidance, counseling,  
5 and testing services;

6 “(G) early childhood and kindergarten pro-  
7 grams, including family-based preschool pro-  
8 grams that emphasize school readiness and pa-  
9 rental skills, and the provision of services to In-  
10 dian children with disabilities;

11 “(H) partnership projects between local  
12 educational agencies and institutions of higher  
13 education that allow secondary school students  
14 to enroll in courses at the postsecondary level to  
15 aid such students in the transition from sec-  
16 ondary school to postsecondary education;

17 “(I) partnership projects between schools  
18 and local businesses for career preparation pro-  
19 grams designed to provide Indian youth with  
20 the knowledge and skills such youth need to  
21 make an effective transition from school to a  
22 high-skill, high-wage career;

23 “(J) programs designed to encourage and  
24 assist Indian students to work toward, and gain



## IV-37

1 entrance into, an institution of higher edu-  
2 cation;

3 “(K) family literacy services; or

4 “(L) other services that meet the purpose  
5 described in subsection (a)(1).

6 “(2) PROFESSIONAL DEVELOPMENT.—Profes-  
7 sional development of teaching professionals and  
8 paraprofessional may be a part of any program as-  
9 sisted under this section.

10 “(d) GRANT REQUIREMENTS AND APPLICATIONS.—

11 “(1) GRANT REQUIREMENTS.—(A) The Sec-  
12 retary may make multiyear grants under this section  
13 for the planning, development, pilot operation, or  
14 demonstration of any activity described in subsection  
15 (c) for a period not to exceed 5 years.

16 “(B) In making multiyear grants under this  
17 section, the Secretary shall give priority to applica-  
18 tions that present a plan for combining two or more  
19 of the activities described in subsection (c) over a  
20 period of more than 1 year.

21 “(C) The Secretary shall make a grant payment  
22 to an eligible entity after the initial year of the  
23 multiyear grant only if the Secretary determines  
24 that the eligible entity has made substantial progress  
25 in carrying out the activities assisted under the



## IV-38

1 grant in accordance with the application submitted  
2 under paragraph (2) and any subsequent modifica-  
3 tions to such application.

4 “(D)(i) In addition to awarding the multiyear  
5 grants described in subparagraph (A), the Secretary  
6 may award grants to eligible entities for the dissemi-  
7 nation of exemplary materials or programs assisted  
8 under this section.

9 “(ii) The Secretary may award a dissemination  
10 grant under this subparagraph if, prior to awarding  
11 the grant, the Secretary determines that the mate-  
12 rial or program to be disseminated has been ade-  
13 quately reviewed and has a demonstrated—

14 “(I) educational merit; and

15 “(II) the ability to be replicated.

16 “(2) APPLICATION.—(A) Any eligible entity  
17 that desires to receive a grant under this section  
18 shall submit an application to the Secretary at such  
19 time and in such manner as the Secretary may re-  
20 quire.

21 “(B) Each application submitted to the Sec-  
22 retary under subparagraph (A), other than an appli-  
23 cation for a dissemination grant under paragraph  
24 (1)(D), shall contain—



## IV-39

1           “(i) a description of how parents of Indian  
2 children and representatives of Indian tribes  
3 have been, and will be, involved in developing  
4 and implementing the activities for which as-  
5 sistance is sought;

6           “(ii) assurances that the applicant will par-  
7 ticipate, at the request of the Secretary, in any  
8 national evaluation of activities assisted under  
9 this section;

10           “(iii) information demonstrating that the  
11 proposed program is either a research-based  
12 program (which may be a research-based pro-  
13 gram that has been modified to be culturally  
14 appropriate for the students who will be  
15 served);

16           “(iv) a description of how the applicant  
17 will incorporate the proposed services into the  
18 ongoing school program once the grant period is  
19 over; and

20           “(v) such other assurances and informa-  
21 tion as the Secretary may reasonably require.

22           “(e) ADMINISTRATIVE COSTS.—Not more than 5 per-  
23 cent of the funds provided to a grantee under this subpart  
24 for any fiscal year may be used for administrative pur-  
25 poses.



## IV-40

1 **“SEC. 9122. PROFESSIONAL DEVELOPMENT FOR TEACHERS**  
2 **AND EDUCATION PROFESSIONALS.**

3 “(a) PURPOSES.—The purposes of this section are—

4 “(1) to increase the number of qualified Indian  
5 individuals in teaching or other education profes-  
6 sions that serve Indian people;

7 “(2) to provide training to qualified Indian indi-  
8 viduals to enable such individuals to become teach-  
9 ers, administrators, teacher aides, social workers,  
10 and ancillary educational personnel; and

11 “(3) to improve the skills of qualified Indian in-  
12 dividuals who serve in the capacities described in  
13 paragraph (2).

14 “(b) ELIGIBLE ENTITIES.—For the purpose of this  
15 section, the term ‘eligible entity’ means—

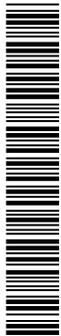
16 “(1) an institution of higher education, includ-  
17 ing an Indian institution of higher education;

18 “(2) a State or local educational agency, in con-  
19 sortium with an institution of higher education; and

20 “(3) an Indian tribe or organization, in consor-  
21 tium with an institution of higher education.

22 “(c) PROGRAM AUTHORIZED.—The Secretary is au-  
23 thorized to award grants to eligible entities having applica-  
24 tions approved under this section to enable such entities  
25 to carry out the activities described in subsection (d).

26 “(d) AUTHORIZED ACTIVITIES.—



## IV-41

1           “(1) IN GENERAL.—Grant funds under this sec-  
2           tion shall be used to provide support and training  
3           for Indian individuals in a manner consistent with  
4           the purposes of this section. Such activities may in-  
5           clude but are not limited to, continuing programs,  
6           symposia, workshops, conferences, and direct finan-  
7           cial support.

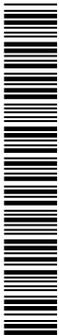
8           “(2) SPECIAL RULES.—(A) For education per-  
9           sonnel, the training received pursuant to a grant  
10          under this section may be inservice or preservice  
11          training.

12          “(B) For individuals who are being trained to  
13          enter any field other than teaching, the training re-  
14          ceived pursuant to a grant under this section shall  
15          be in a program that results in a graduate degree.

16          “(e) APPLICATION.—Each eligible entity desiring a  
17          grant under this section shall submit an application to the  
18          Secretary at such time, in such manner and accompanied  
19          by such information, as the Secretary may reasonably re-  
20          quire.

21          “(f) SPECIAL RULE.—In making grants under this  
22          section, the Secretary—

23                  “(1) shall consider the prior performance of the  
24                  eligible entity; and



## IV-42

1           “(2) may not limit eligibility to receive a grant  
2 under this section on the basis of—

3           “(A) the number of previous grants the  
4 Secretary has awarded such entity; or

5           “(B) the length of any period during which  
6 such entity received such grants.

7           “(g) GRANT PERIOD.—Each grant under this section  
8 shall be awarded for a program of not more than 5 years.

9           “(h) SERVICE OBLIGATION.—

10           “(1) IN GENERAL.—The Secretary shall re-  
11 quire, by regulation, that an individual who receives  
12 training pursuant to a grant made under this  
13 section—

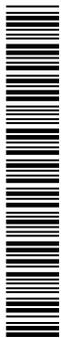
14           “(A) perform work—

15           “(i) related to the training received  
16 under this section; and

17           “(ii) that benefits Indian people; or

18           “(B) repay all or a prorated part of the as-  
19 sistance received.

20           “(2) REPORTING.—The Secretary shall estab-  
21 lish, by regulation, a reporting procedure under  
22 which a grant recipient under this section shall, not  
23 later than 12 months after the date of completion of  
24 the training, and periodically thereafter, provide in-



## IV-43

1 formation concerning the compliance of such recipi-  
2 ent with the work requirement under paragraph (1).

3 **“Subpart 3—National Research Activities**

4 **“SEC. 9141. NATIONAL ACTIVITIES.**

5 “(a) AUTHORIZED ACTIVITIES.—The Secretary may  
6 use funds made available under section 9162(b) for each  
7 fiscal year to—

8 “(1) conduct research related to effective ap-  
9 proaches for the education of Indian children and  
10 adults;

11 “(2) evaluate federally assisted education pro-  
12 grams from which Indian children and adults may  
13 benefit;

14 “(3) collect and analyze data on the educational  
15 status and needs of Indians; and

16 “(4) carry out other activities that are con-  
17 sistent with the purpose of this part.

18 “(b) ELIGIBILITY.—The Secretary may carry out any  
19 of the activities described in subsection (a) directly or  
20 through grants to, or contracts or cooperative agreements  
21 with Indian tribes, Indian organizations, State educational  
22 agencies, local educational agencies, institutions of higher  
23 education, including Indian institutions of higher edu-  
24 cation, and other public and private agencies and  
25 institutions.



## IV-44

1 “(c) COORDINATION.—Research activities supported  
2 under this section—

3 “(1) shall be carried out in consultation with  
4 the Office of Educational Research and Improve-  
5 ment to assure that such activities are coordinated  
6 with and enhance the research and development ac-  
7 tivities supported by the Office; and

8 “(2) may include collaborative research activi-  
9 ties which are jointly funded and carried out by the  
10 Office of Indian Education Programs and the Office  
11 of Educational Research and Improvement.

12 **“Subpart 4—Federal Administration**

13 **“SEC. 9151. NATIONAL ADVISORY COUNCIL ON INDIAN EDU-  
14 CATION.**

15 “(a) MEMBERSHIP.—There is established a National  
16 Advisory Council on Indian Education (hereafter in this  
17 section referred to as the ‘Council’), which shall—

18 “(1) consist of 15 Indian members, who shall  
19 be appointed by the President from lists of nominees  
20 furnished, from time to time, by Indian tribes and  
21 organizations; and

22 “(2) represent different geographic areas of the  
23 United States.

24 “(b) DUTIES.—The Council shall—



## IV-45

1           “(1) advise the Secretary concerning the fund-  
2           ing and administration (including the development of  
3           regulations and administrative policies and prac-  
4           tices) of any program, including any program estab-  
5           lished under this part—

6                   “(A) with respect to which the Secretary  
7           has jurisdiction; and

8                   “(B)(i) that includes Indian children or  
9           adults as participants; or

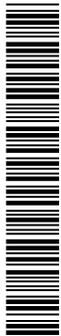
10                   “(ii) that may benefit Indian children or  
11           adults;

12           “(2) make recommendations to the Secretary  
13           for filling the position of Director of Indian Edu-  
14           cation whenever a vacancy occurs; and

15           “(3) submit to the Congress, not later than  
16           June 30 of each year, a report on the activities of  
17           the Council, including—

18                   “(A) any recommendations that the Coun-  
19           cil considers appropriate for the improvement of  
20           Federal education programs that include Indian  
21           children or adults as participants, or that may  
22           benefit Indian children or adults; and

23                   “(B) recommendations concerning the  
24           funding of any program described in subpara-  
25           graph (A).



## IV-46

1 **“SEC. 9152. PEER REVIEW.**

2 “The Secretary may use a peer review process to re-  
3 view applications submitted to the Secretary under sub-  
4 part 2 or 3.

5 **“SEC. 9153. PREFERENCE FOR INDIAN APPLICANTS.**

6 “In making grants under subpart 2 or 3, the Sec-  
7 retary shall give a preference to Indian tribes, organiza-  
8 tions, and institutions of higher education under any pro-  
9 gram with respect to which Indian tribes, organizations,  
10 and institutions are eligible to apply for grants.

11 **“SEC. 9154. MINIMUM GRANT CRITERIA.**

12 “The Secretary may not approve an application for  
13 a grant under subpart 2 unless the application is for a  
14 grant that is—

15 “(1) of sufficient size, scope, and quality to  
16 achieve the purpose or objectives of such grant; and

17 “(2) based on relevant research findings.

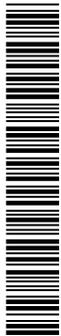
18 **“Subpart 5—Definitions; Authorizations of**  
19 **Appropriations**

20 **“SEC. 9161. DEFINITIONS.**

21 “For the purposes of this part:

22 “(1) ADULT.—The term ‘adult’ means an indi-  
23 vidual who—

24 “(A) has attained the age of 16 years; or



## IV-47

1           “(B) has attained an age that is greater  
2           than the age of compulsory school attendance  
3           under an applicable State law.

4           “(2) FREE PUBLIC EDUCATION.—The term  
5           ‘free public education’ means education that is—

6           “(A) provided at public expense, under  
7           public supervision and direction, and without  
8           tuition charge; and

9           “(B) provided as elementary or secondary  
10          education in the applicable State or to preschool  
11          children.

12          “(3) INDIAN.—The term ‘Indian’ means an in-  
13          dividual who is—

14          “(A) a member of an Indian tribe or band,  
15          as membership is defined by the tribe or band,  
16          including—

17                  “(i) any tribe or band terminated  
18                  since 1940; and

19                  “(ii) any tribe or band recognized by  
20                  the State in which the tribe or band re-  
21                  sides;

22          “(B) a descendant, in the first or second  
23          degree, of an individual described in subpara-  
24          graph (A);



## IV-48

1           “(C) considered by the Secretary of the In-  
2           terior to be an Indian for any purpose;

3           “(D) an Eskimo, Aleut, or other Alaska  
4           Native; or

5           “(E) a member of an organized Indian  
6           group that received a grant under the Indian  
7           Education Act of 1988 as it was in effect the  
8           day preceding the date of enactment of the Im-  
9           proving America’s Schools Act of 1994.

10 **“SEC. 9162. AUTHORIZATIONS OF APPROPRIATIONS.**

11           “(a) SUBPART 1.—For the purpose of carrying out  
12           subpart 1 of this part, there are authorized to be appro-  
13           priated \$62,000,000 for fiscal year 2000, and such sums  
14           as may be necessary for each of fiscal years 2001 through  
15           2004.

16           “(b) SUBPARTS 2 AND 3.—For the purpose of car-  
17           rying out subparts 2 and 3 of this part, there are author-  
18           ized to be appropriated \$4,000,000 for fiscal year 2000,  
19           and such sums as may be necessary for each of the fiscal  
20           years 2001 through 2004.”.

21           **PART B—NATIVE HAWAIIAN EDUCATION**

22           **SEC. 402. NATIVE HAWAIIAN EDUCATION.**

23           Part B of title IX of the Elementary and Secondary  
24           Education Act of 1965 (20 U.S.C. 7901 et seq.) is  
25           amended—



## IV-49

1 (1) by amending the heading thereof to read as  
2 follows:

3 **“PART B—NATIVE HAWAIIAN EDUCATION”;**

4 (2) in section 9202(17), by inserting after the  
5 first sentence the following: “Subsequent reports by  
6 the Kamahameha School Bishop Estate and other  
7 organizations have generally confirmed those find-  
8 ings.”;

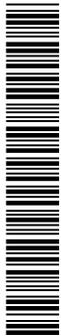
9 (3) in section 9203(2), by striking “on Native  
10 Hawaiian education,” and everything that follows  
11 through the end thereof and inserting “on Native  
12 Hawaiian education;”;

13 (4) in section 9204(e)(1), by striking “the Com-  
14 mittee on Education and Labor” and inserting “the  
15 Committee on Education and the Workforce”;

16 (5) in section 9204(f)(1), by striking “the es-  
17 tablishment” and everything that follows and insert-  
18 ing “the operation of one or more island councils to  
19 coordinate the provision of educational and related  
20 services and programs available to Native Hawai-  
21 ians.”;

22 (6) in section 9204(i)—

23 (A) by striking “the Improving America’s  
24 Schools Act of 1994,” and inserting “this  
25 Act,”;



## IV-50

1 (B) by striking “the Committee on Edu-  
2 cation and Labor” and inserting “the Com-  
3 mittee on Education and the Workforce”;

4 (7) by repealing section 9204(j);

5 (8) by repealing sections 9205 through 9210  
6 and inserting the following:

7 **“SEC. 9205. PROGRAM AUTHORIZED.**

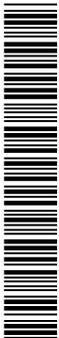
8 “(a) GENERAL AUTHORITY.—

9 “(1) PROGRAM AUTHORIZED.—The Secretary is  
10 authorized to make grants to, or enter into contracts  
11 with, Native Hawaiian educational organizations;  
12 Native Hawaiian community-based organizations;  
13 public and private nonprofit organizations, agencies,  
14 or institutions with experience in developing or oper-  
15 ating Native Hawaiian programs or programs of in-  
16 struction in the Native Hawaiian language; and con-  
17 sortia of such organizations, agencies, or institutions  
18 to carry out programs that meet the purposes of this  
19 part.

20 “(2) PERMISSIBLE ACTIVITIES.—Programs  
21 under this part may include—

22 “(A) the operation of family-based edu-  
23 cation centers that provide such services as—

24 “(i) programs for parents and their  
25 infants from prenatal through age three;



## IV-51

1 “(ii) preschool programs;  
2 “(iii) family literacy services; and  
3 “(iv) research on, development of, and  
4 assessment of family-based, early child-  
5 hood, and preschool programs for Native  
6 Hawaiians;

7 “(B) activities to enable Native Hawaiians  
8 to enter and complete programs of postsec-  
9 ondary education, including—

10 “(i) full or partial fellowships for un-  
11 dergraduate or graduate study that are  
12 awarded to students based on their aca-  
13 demic promise and financial need, with a  
14 priority, at the graduate level, given to  
15 professions in which Native Hawaiians are  
16 underrepresented;

17 “(ii) counseling and support services  
18 for students receiving fellowship assistance;

19 “(iii) counseling and guidance for Na-  
20 tive Hawaiian secondary students who have  
21 the potential to receive fellowships; and

22 “(iv) faculty development activities de-  
23 signed to promote the matriculation of Na-  
24 tive Hawaiian students;



## IV-52

1           “(C) activities that address the special  
2 needs of Native Hawaiian students who are  
3 gifted and talented, including—

4           “(i) educational, psychological, and  
5 developmental activities designed to assist  
6 in the educational progress of those stu-  
7 dents; and

8           “(ii) activities that involve the parents  
9 of those students in a manner designed to  
10 assist in the students’ educational  
11 progress;

12           “(D) activities to meet the special needs of  
13 Native Hawaiian students with disabilities,  
14 including—

15           “(i) the identification of such stu-  
16 dents, and of their needs;

17           “(ii) the provision of support services  
18 to the families of those students; and

19           “(iii) other activities consistent with  
20 the requirements of the Individuals with  
21 Disabilities Education Act;

22           “(E) the development of academic and vo-  
23 cational curricula to address the needs of Na-  
24 tive Hawaiian children and adults, including  
25 curriculum materials in the Hawaiian language



IV-53

1 and mathematics and science curricula that in-  
2 corporate Native Hawaiian tradition and cul-  
3 ture;

4 “(F) professional development activities for  
5 educators, including—

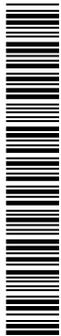
6 “(i) the development of programs to  
7 prepare prospective teachers to address the  
8 unique needs of Native Hawaiian students  
9 within the context of Native Hawaiian cul-  
10 ture, language, and traditions;

11 “(ii) in-service programs to improve  
12 the ability of teachers who teach in schools  
13 with concentrations of Native Hawaiian  
14 students to meet those students’ unique  
15 needs; and

16 “(iii) recruiting and preparing Native  
17 Hawaiians, and other individuals who live  
18 in communities with a high concentration  
19 of Native Hawaiians, to become teachers;

20 “(G) the operation of community-based  
21 learning centers that address the needs of na-  
22 tive Hawaiian families and communities  
23 through the coordination of public and private  
24 programs and services, including—

25 “(i) preschool programs;



## IV-54

1 “(ii) after-school programs; and

2 “(iii) vocational and adult education  
3 programs;

4 “(H) research and data-collection activities  
5 to determine the educational status and needs  
6 of Native Hawaiian children and adults;

7 “(I) other research and evaluation activi-  
8 ties related to programs under this part; and

9 “(J) other activities, consistent with the  
10 purposes of this part, to meet the educational  
11 needs of Native Hawaiian children and adults.

12 “(3) PRIORITIES.—In awarding grants or con-  
13 tracts to carry out activities described in paragraphs  
14 (2)(E) and (2)(F), the Secretary shall give priority  
15 to projects that—

16 “(A) focus on the needs of at-risk youth;  
17 and

18 “(B) use the Hawaiian language in in-  
19 struction.

20 “(4) SPECIAL RULE AND CONDITIONS.—

21 “(A) No policy shall be made in imple-  
22 menting this section to prevent a Native Hawai-  
23 ian student enrolled at an accredited two- or  
24 four-year degree granting institution of higher  
25 education outside of the State of Hawaii from



## IV-55

1 receiving a fellowship pursuant to paragraph  
2 (2)(B).

3 “(B) For the purposes of a fellowships  
4 awarded under paragraph (2)(B), fellowship  
5 conditions shall be established whereby fellow-  
6 ship recipients obtain an enforceable contrac-  
7 tual obligation to provide their professional  
8 services, either during the fellowship period or  
9 upon completion of a baccalaureate or post-bac-  
10 calaureate degree program, to the Native Ha-  
11 waiian community.

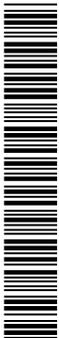
12 “(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not  
13 more than 5 percent of funds provided to a grantee under  
14 this section for any fiscal year may be used for administra-  
15 tive purposes.

16 “(c) AUTHORIZATION OF APPROPRIATIONS.—

17 “(1) There are authorized to be appropriated  
18 \$20,000,000 for fiscal year 2000, and such sums as  
19 may be necessary for each of the fiscal years 2001  
20 through 2004 to carry out this part.

21 “(2) Of the funds appropriated under this sub-  
22 section, not more than \$300,000 may be used in any  
23 fiscal year to carry out section 9204.”;

24 (9) in section 9211, by amending subsection (b)  
25 to read as follows:



## IV-56

1       “(b) SPECIAL RULE.—Each applicant for a grant or  
2 contract under this part shall submit its application for  
3 comment to each local educational agency serving students  
4 who will participate in the project and include those com-  
5 ments, if any, with its application to the Secretary.”;

6           (10) in section 9212—

7           (A) by striking paragraph (3); and

8           (B) by redesignating paragraphs (4)  
9 through (6) as paragraphs (3) through (5), re-  
10 spectively; and

11          (11) by redesignating sections 9211 and 9212  
12 as sections 9206 and 9207, respectively.

13           **PART C—ALASKA NATIVE EDUCATION**

14   **SEC. 403. ALASKA NATIVE EDUCATION,**

15       Part C of title IX of the Elementary and Secondary  
16 Education Act of 1965 (20 U.S.C. 7931 et seq.) is  
17 amended—

18           (1) by repealing sections 9304 through 9306  
19 and inserting the following:

20   **“SEC. 9304. PROGRAM AUTHORIZED.**

21       “(a) GENERAL AUTHORITY.—

22           “(1) PROGRAM AUTHORIZED.—The Secretary is  
23 authorized to make grants to, or enter into contracts  
24 with, Alaska Native organizations, educational enti-  
25 ties with experience in developing or operating Alas-



## IV-57

1 ka Native programs or programs of instruction con-  
2 ducted in Alaska Native languages, and consortia of  
3 such organizations and entities to carry out pro-  
4 grams that meet the purpose of this part.

5 “(2) PERMISSIBLE ACTIVITIES.— Programs  
6 under this part may include—

7 “(A) the development and implementation  
8 of plans, methods, and strategies to improve the  
9 education of Alaska Natives;

10 “(B) the development of curricula and edu-  
11 cational programs that address the educational  
12 needs of Alaska Native students, including—

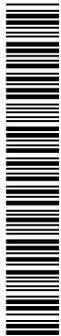
13 “(i) curriculum materials that reflect  
14 the cultural diversity or the contributions  
15 of Alaska Natives;

16 “(ii) instructional programs that make  
17 use of Native Alaskan languages; and

18 “(iii) networks that introduce success-  
19 ful programs, materials, and techniques to  
20 urban and rural schools;

21 “(C) professional development activities for  
22 educators, including—

23 “(i) programs to prepare teachers to  
24 address the cultural diversity and unique  
25 needs of Alaska Native students;



## IV-58

1           “(ii) in-service programs to improve  
2           the ability of teachers to meet the unique  
3           needs of Alaska Native students; and

4           “(iii) recruiting and preparing teach-  
5           ers who are Alaska Natives, reside in com-  
6           munities with high concentrations of Alas-  
7           ka Native students, or are likely to succeed  
8           as teachers in isolated, rural communities  
9           and engage in cross-cultural instruction;

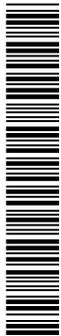
10          “(D) the development and operation of  
11          home instruction programs for Alaska Native  
12          preschool children, the purpose of which is to  
13          ensure the active involvement of parents in  
14          their children’s education from the earliest  
15          ages;

16          “(E) family Literacy Services;

17          “(F) the development and operation of stu-  
18          dent enrichment programs in science and math-  
19          ematics that—

20                 “(i) are designed to prepare Alaska  
21                 Native students from rural areas, who are  
22                 preparing to enter high school, to excel in  
23                 science and math; and

24                 “(ii) provide appropriate support serv-  
25                 ices to the families of such students that



## IV-59

1 are needed to enable such students to ben-  
2 efit from the program;

3 “(G) research and data-collection activities  
4 to determine the educational status and needs  
5 of Alaska Native children and adults;

6 “(H) other research and evaluation activi-  
7 ties related to programs under this part; and

8 “(I) other activities, consistent with the  
9 purposes of this part, to meet the educational  
10 needs of Alaska Native children and adults.

11 “(3) HOME INSTRUCTION PROGRAMS.—Home  
12 instruction programs for Alaska Native preschool  
13 children under paragraph (2)(D) may include—

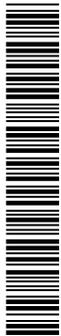
14 “(A) programs for parents and their in-  
15 fants, from prenatal through age three;

16 “(B) preschool programs; and

17 “(C) training, education, and support for  
18 parents in such areas as reading readiness, ob-  
19 servation, story-telling, and critical thinking.

20 “(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not  
21 more than 5 percent of funds provided to a grantee under  
22 this section for any fiscal year may be used for administra-  
23 tive purposes.

24 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated \$10,000,000 for fiscal



## IV-60

1 year 2000, and such sums as may be necessary for each  
2 of the fiscal years 2001 through 2004 to carry out this  
3 part.”;

4 (2) in section 9307—

5 (A) by amending subsection (b) to read as  
6 follows:

7 “(b) APPLICATIONS.—State and local educational  
8 agencies may apply for an award under this part only as  
9 part of a consortium involving an Alaska Native organiza-  
10 tion. This consortium may include other eligible appli-  
11 cants.”;

12 (B) by amending subsection (d) to read as  
13 follows:

14 “(d) LOCAL EDUCATIONAL AGENCY COORDINA-  
15 TION.—Each applicant for an award under this part shall  
16 inform each local educational agency serving students who  
17 would participate in the project about its application.”;  
18 and

19 (C) by striking subsection (e); and

20 (3) by redesignating sections 9307 and 9308 as  
21 sections 9305 and 9306, respectively.





## IV-62

1 education for their communities taking into account  
2 the implications of such purposes on education in  
3 their communities and for their schools. In adopting  
4 such declarations of purpose, the school boards shall  
5 consider the effect those declarations may have on  
6 the motivation of students and faculties. Such dec-  
7 larations shall represent the aspirations of the com-  
8 munity for the kinds of people the community would  
9 like its children to become, and shall include assur-  
10 ances that all learners will become accomplished in  
11 things and ways important to them and respected by  
12 their parents and communities, shaping worthwhile  
13 and satisfying lives for themselves, exemplifying the  
14 best values of the community and humankind, and  
15 becoming increasingly effective in shaping the char-  
16 acter and quality of the world all learners share.  
17 These declarations of purpose shall influence the  
18 standards for accreditation to be accepted by the  
19 schools.

20 “(b) STUDIES AND SURVEYS RELATING TO STAND-  
21 ARDS.—Not later than 1 year after the date of the enact-  
22 ment of the Student Results Act of 1999, the Secretary,  
23 in consultation with the Secretary of Education and In-  
24 dian organizations and tribes, shall carry out by contract  
25 with an Indian organization, studies and surveys to estab-



## IV-63

1 lish and revise standards for the basic education of Indian  
2 children attending Bureau funded schools. Such studies  
3 and surveys shall take into account the uniqueness of In-  
4 dian culture and the desire for equal educational opportu-  
5 nities for Indian children.

6 “(c) REVISION OF MINIMUM ACADEMIC STAND-  
7 ARDS.—

8 “(1) IN GENERAL.—Not later than 1 year after  
9 the date of the enactment of the Student Results  
10 Act of 1999, the Secretary shall—

11 “(A) propose revisions to the minimum  
12 academic standards published in the Federal  
13 Register on September 9, 1995 (50 Fed. Reg.  
14 174) for the basic education of Indian children  
15 attending Bureau funded schools in accordance  
16 with the purpose described in subsection (a)  
17 and the findings of the studies and surveys con-  
18 ducted under subsection (b);

19 “(B) publish such proposed revisions to  
20 such standards in the Federal Register for the  
21 purpose of receiving comments from the tribes  
22 and other interested parties; and

23 “(C) consistent with the provisions of this  
24 section and section 1131, take such actions as  
25 are necessary to coordinate standards imple-



## IV-64

1           mented under this section with the Comprehen-  
2           sive School Reform Plan developed by the Bu-  
3           reau and—

4                   “(i) with the standards of State the  
5                   improvement plans for the States in which  
6                   any school operated by the Bureau of In-  
7                   dian Affairs is located; or

8                   “(ii) in the case where schools oper-  
9                   ated by the Bureau are within the bound-  
10                  aries of reservation land of 1 tribe but  
11                  within the boundardies of more than 1  
12                  State, with the standards of the State im-  
13                  provement plan of 1 such State selected by  
14                  the tribe.

15                  “(2) FURTHER REVISIONS.—Not later that 6  
16                  months after the close of the comment period, the  
17                  Secretary shall establish final standards, distribute  
18                  such standards to all tribes and publish such final  
19                  standards in the Federal Register. The Secretary  
20                  shall revise such standards periodically as necessary.  
21                  Prior to any revision of such final standards, the  
22                  Secretary shall distribute such proposed revision to  
23                  all the tribes, and publish such proposed revision in  
24                  the Federal Register, for the purpose of receiving



## IV-65

1 comments from the tribes and other interested par-  
2 ties.

3 “(3) APPLICABILITY OF STANDARDS.—Except  
4 as provided in subsection (e), the final standards  
5 published under paragraph (2) shall apply to all Bu-  
6 reau funded schools not accredited under subsection  
7 (f), and may also serve as a model for educational  
8 programs for Indian children in public schools.

9 “(4) CONSIDERATIONS WHEN ESTABLISHING  
10 AND REVISING STANDARDS.—In establishing and re-  
11 vising such standards, the Secretary shall take into  
12 account the unique needs of Indian students and  
13 support and reinforcement of the specific cultural  
14 heritage of each tribe.

15 “(d) ALTERNATIVE OR MODIFIED STANDARDS.—The  
16 Secretary shall provide alternative or modified standards  
17 in lieu of the standards established under subsection (c),  
18 where necessary, so that the programs of each school are  
19 in compliance with the minimum accreditation standards  
20 required for schools in the State or region where the school  
21 is located.

22 “(e) WAIVER OF STANDARDS; ALTERNATIVE STAND-  
23 ARDS.—A tribal governing body, or the local school board  
24 so designated by the tribal governing body, shall have the  
25 local authority to waive, in part or in whole, the standards



## IV-66

1 established under subsection (c) and (d) if such standards  
2 are deemed by such body to be inappropriate. The tribal  
3 governing body or designated school board shall, not later  
4 than 60 days after a waiver under this subsection, submit  
5 to the Secretary a proposal for alternative standards that  
6 take into account the specific needs of the tribe's children.  
7 Such alternative standards shall be established by the Sec-  
8 retary unless specifically rejected by the Secretary for  
9 good cause and in writing to the affected tribes or local  
10 school board, which rejection shall be final and not subject  
11 to review.

12 “(f) ACCREDITATION AND IMPLEMENTATION OF  
13 STANDARDS.—

14 “(1) DEADLINE FOR MEETING STANDARDS.—

15 Not later the second academic year after publication  
16 of the standards, to the extent necessary funding is  
17 provided, all Bureau funded schools shall meet the  
18 standards established under subsections (c) and (d)  
19 or shall be accredited—

20 “(A) by a tribal accrediting body, if the ac-  
21 creditation standards of the tribal accrediting  
22 body have been accepted by formal action of the  
23 tribal governing body and are equal to or ex-  
24 ceed the accreditation standards of the State or  
25 region in which the school is located;



## IV-67

1           “(B) by a regional accreditation agency; or

2           “(C) by State accreditation standards for  
3           the State in which it is located.

4           “(2) DETERMINATION OF STANDARDS TO BE  
5           APPLIED.—The accreditation type or standards ap-  
6           plied for each school shall be determined by the  
7           school board of the school, in consultation with the  
8           Administrator of the school, provided that in the  
9           case where the School Board and the Administrator  
10          fail to agree on the type of accreditation and stand-  
11          ards to apply, the decision of the school board with  
12          the approval of the tribal governing body shall be  
13          final.

14          “(3) ASSISTANCE TO SCHOOL BOARDS.—The  
15          Secretary, through contracts and grants, shall assist  
16          school boards of contract or grant schools in imple-  
17          mentation of the standards established under sub-  
18          sections (c) and (d), if the school boards request  
19          that such standards, in part or in whole, be imple-  
20          mented.

21          “(4) FISCAL CONTROL AND FUND ACCOUNTING  
22          STANDARDS.—The Bureau shall, either directly or  
23          through contract with an Indian organization, estab-  
24          lish a consistent system of reporting standards for  
25          fiscal control and fund accounting for all contract

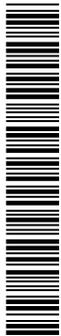


## IV-68

1 and grant schools. Such standards shall yield data  
2 results comparable to those used by Bureau schools.  
3 “(g) ANNUAL PLAN FOR MEETING OF STAND-  
4 ARDS.—Except as provided in subsections (e) and (f), the  
5 Secretary shall begin to implement the standards estab-  
6 lished under this section immediately upon the date of  
7 their establishment. On an annual basis, the Secretary  
8 shall submit to the appropriate committees of Congress,  
9 all Bureau funded schools, and the tribal bodies of such  
10 schools a detailed plan to bring all Bureau schools and  
11 contract or grant schools up to the level required by the  
12 applicable standards established under this section. Such  
13 plan shall include detailed information on the status of  
14 each school’s educational program in relation to the appli-  
15 cable standards established under this section, specific  
16 cost estimates for meeting such standards at each school  
17 and specific time lines for bringing each school up to the  
18 level required by such standards.

19 “(h) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

20 “(1) IN GENERAL.—Except as specifically re-  
21 quired by statute, no school or peripheral dormitory  
22 operated by the Bureau on or after January 1,  
23 1992, may be closed or consolidated or have its pro-  
24 gram substantially curtailed unless done according  
25 to the requirements of this subsection.



## IV-69

1           “(2) EXCEPTIONS.—This subsection shall not  
2 apply—

3           “(A) in those cases where the tribal gov-  
4 erning body, or the local school board concerned  
5 (if so designated by the tribal governing body),  
6 requests closure or consolidation; or

7           “(B) when a temporary closure, consolida-  
8 tion, or substantial curtailment is required by  
9 plant conditions which constitute an immediate  
10 hazard to health and safety.

11           “(3) REGULATIONS.—The Secretary shall, by  
12 regulation, promulgate standards and procedures for  
13 the closure, transfer to another authority, consolida-  
14 tion, or substantial curtailment of Bureau schools, in  
15 accordance with the requirements of this subsection.

16           “(4) NOTICE.—Whenever closure, transfer to  
17 another authority, consolidation, or substantial cur-  
18 tailment of a school is under active consideration or  
19 review by any division of the Bureau or the Depart-  
20 ment of the Interior, the affected tribes, tribal gov-  
21 erning body, and designated local school board, will  
22 be notified immediately, kept fully and currently in-  
23 formed, and afforded an opportunity to comment  
24 with respect to such consideration or review. When  
25 a formal decision is made to close, transfer to an-



## IV-70

1 other authority, consolidate or substantially curtail a  
2 school, the affected tribe, tribal governing body, and  
3 designated school board shall be notified at least 6  
4 months prior to the end of the school year preceding  
5 the proposed closure date. Copies of any such no-  
6 tices and information shall be transmitted promptly  
7 to the appropriate Committees of Congress and pub-  
8 lished in the Federal Register.

9 “(5) REPORT.—The Secretary shall make a re-  
10 port to the appropriate Committees of Congress, the  
11 affected tribe, and the designated school board de-  
12 scribing the process of the active consideration or re-  
13 view referred to in paragraph (4). The report shall  
14 include a study of the impact of such action on the  
15 student population, identify those students with par-  
16 ticular educational and social needs, and ensure that  
17 alternative services are available to such students.  
18 Such report shall include the description of the con-  
19 sultation conducted between the potential service  
20 provider, current service provider, parents, tribal  
21 representatives and the tribe or tribes involved, and  
22 the Director of the Office of Indian Education Pro-  
23 grams within the Bureau regarding such students.

24 “(6) LIMITATION ON CERTAIN ACTIONS.—No  
25 irrevocable action may be taken in furtherance of



## IV-71

1 any such proposed school closure, transfer to an-  
2 other authority, consolidation or substantial curtail-  
3 ment (including any action which would prejudice  
4 the personnel or programs of such school) until the  
5 end of the first full academic year after such report  
6 is made.

7 “(7) TRIBAL GOVERNING BODY APPROVAL RE-  
8 QUIRED FOR CERTAIN ACTIONS.—The Secretary may  
9 terminate, contract, transfer to any other authority,  
10 consolidate, or substantially curtail the operation or  
11 facilities of—

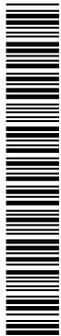
12 “(A) any Bureau funded school that is op-  
13 erated on or after of January 1, 1999;

14 “(B) any program of such a school that is  
15 operated on or after January 1, 1999; or

16 “(C) any school board of a school operated  
17 under a grant under the Tribally Controlled  
18 Schools Act of 1988,

19 only if the tribal governing body approves such ac-  
20 tion.

21 “(i) APPLICATION FOR CONTRACTS OR GRANTS FOR  
22 NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BU-  
23 REAU FUNDED SCHOOLS.—



## IV-72

1           “(1) IN GENERAL.—(A)(i) The Secretary shall  
2 only consider the factors described in subparagraph  
3 (B) in reviewing—

4           “(I) applications from any tribe for the  
5 awarding of a contract or grant for a school  
6 that is not a Bureau funded school; and

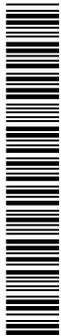
7           “(II) applications from any tribe or school  
8 board of any Bureau funded school for—

9           “(aa) a school which is not a Bureau  
10 funded school; or

11           “(bb) the expansion of a Bureau  
12 funded school which would increase the  
13 amount of funds received by the Indian  
14 tribe or school board under section 1127.

15           “(ii) With respect to applications described in  
16 this subparagraph, the Secretary shall give consider-  
17 ation to all the factors described in subparagraph  
18 (B), but no such application shall be denied based  
19 primarily upon the geographic proximity of com-  
20 parable public education.

21           “(B) With respect to applications described in  
22 subparagraph (A) the Secretary shall consider the  
23 following factors relating to the program and serv-  
24 ices that are the subject of the application:



## IV-73

1           “(i) The adequacy of the facilities or the  
2 potential to obtain or provide adequate facili-  
3 ties.

4           “(ii) Geographic and demographic factors  
5 in the affected areas.

6           “(iii) The adequacy of the applicant’s pro-  
7 gram plans or, in the case of a Bureau funded  
8 school, of projected needs analysis done either  
9 by the tribe or the Bureau.

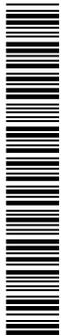
10           “(iv) Geographic proximity of comparable  
11 public education.

12           “(v) The stated needs of all affected par-  
13 ties, including students, families, tribal govern-  
14 ments at both the central and local levels, and  
15 school organizations.

16           “(vi) Adequacy and comparability of pro-  
17 grams already available.

18           “(vii) Consistency of available programs  
19 with tribal educational codes or tribal legisla-  
20 tion on education.

21           “(viii) The history and success of these  
22 services for the proposed population to be  
23 served, as determined from all factors, including  
24 but not limited to standardized examination  
25 performance.



## IV-74

1           “(2) DETERMINATION ON APPLICATION.—(A)  
2           The Secretary shall make a determination of wheth-  
3           er to approve any application described in paragraph  
4           (1)(A) not later than 180 days after such applica-  
5           tion is submitted to the Secretary.

6           “(B) If the Secretary fails to make the deter-  
7           mination with respect to an application by the date  
8           described in subparagraph (A), the application shall  
9           be treated as having been approved by the Secretary.

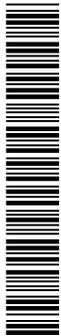
10          “(3) REQUIREMENTS FOR APPLICATIONS.—(A)  
11          Notwithstanding paragraph (2)(B), an application  
12          described in paragraph (1)(A) may be approved by  
13          the Secretary only if—

14                 “(i) the application has been approved by  
15                 the tribal governing body of the students served  
16                 by (or to be served by) the school or program  
17                 that is the subject of the application, and

18                 “(ii) written evidence of such approval is  
19                 submitted with the application.

20          “(B) Each application described in paragraph  
21          (1)(A) shall provide information concerning each of  
22          the factors described in paragraph (1)(B).

23          “(4) DENIAL OF APPLICATIONS.—Whenever the  
24          Secretary makes a determination to deny approval of



## IV-75

1 any application described in paragraph (1)(A), the  
2 Secretary shall—

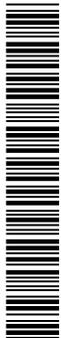
3 “(A) state the objections in writing to the  
4 applicant not later 180 days after the applica-  
5 tion is submitted to the Secretary;

6 “(B) provide assistance to the applicant to  
7 overcome stated objections; and

8 “(C) provide the applicant a hearing,  
9 under the same rules and regulations pertaining  
10 to the Indian Self-Determination and Education  
11 Assistance Act and an opportunity to appeal  
12 the objections raised by the Secretary.

13 “(5) EFFECTIVE DATE OF A SUBJECT APPLICA-  
14 TION.—(A) Except as otherwise provided in this  
15 paragraph, the action which is the subject of any ap-  
16 plication described in paragraph (1)(A) that is ap-  
17 proved by the Secretary shall become effective at the  
18 beginning of the academic year following the fiscal  
19 year in which the application is approved, or at an  
20 earlier date determined by the Secretary.

21 “(B) If an application is treated as having been  
22 approved by the Secretary under paragraph (2)(B),  
23 the action that is the subject of the application shall  
24 become effective on the date that is 18 months after  
25 the date on which the application is submitted to the



## IV-76

1 Secretary, or at an earlier date determined by the  
2 Secretary.

3 “(6) STATUTORY CONSTRUCTION.—Nothing in  
4 this section shall be read so as to preclude the ex-  
5 pansion of grades and related facilities at a Bureau  
6 funded school where such expansion and the mainte-  
7 nance of such expansion is occasioned or paid for  
8 with non-Bureau funds.

9 “(j) GENERAL USE OF FUNDS.—Funds received by  
10 Bureau funded schools from the Bureau of Indian Affairs  
11 and under any program from the Department of Edu-  
12 cation or any other Federal agency for the purpose of pro-  
13 viding education or related services may be used for  
14 school-wide projects to improve the educational program  
15 for all Indian students.

16 “(k) STUDY ON ADEQUACY OF FUNDS AND FOR-  
17 MULAS.—The Comptroller General shall conduct a study,  
18 in consultation with Indian tribes and local school boards,  
19 to determine the adequacy of funding, and formulas used  
20 by the Bureau to determine funding, for programs oper-  
21 ated by Bureau funded schools, taking into account unique  
22 circumstances applicable to Bureau funded schools, as well  
23 as expenditures for comparable purposes in public schools  
24 nationally. Upon completion of the study, the Secretary  
25 of the Interior shall take such action as necessary to en-



## IV-77

1 sure distribution of the findings of the study to all affected  
2 Indian tribes, local school boards, and associations of local  
3 school boards.

4 **“SEC. 1122. NATIONAL CRITERIA FOR HOME LIVING SITUA-**  
5 **TIONS.**

6 “(a) IN GENERAL.—The Secretary, in consultation  
7 with the Secretary of the Department of Education and  
8 Indian organizations and tribes, shall revise the national  
9 standards for home-living (dormitory) situations to include  
10 such factors as heating, lighting, cooling, adult-child ra-  
11 tios, needs for counselors (including special needs related  
12 to off-reservation home-living (dormitory) arrangements),  
13 therapeutic programs, space, and privacy. Such standards  
14 shall be implemented in Bureau operated schools, and  
15 shall serve as minimum standards for contract or grant  
16 schools. Once established, any revisions of such standards  
17 shall be developed according to the requirements estab-  
18 lished under section 1138.

19 “(b) IMPLEMENTATION.—The Secretary shall imple-  
20 ment the revised standards established under this section  
21 immediately upon their completion.

22 “(c) PLAN.—At the time of each annual budget sub-  
23 mission for Bureau educational services is presented, the  
24 Secretary shall submit to the appropriate committees of  
25 Congress, the tribes, and the affected schools, and publish



## IV-78

1 in the Federal Register, a detailed plan to bring all Bu-  
2 reau funded schools that provide home-living (dormitory)  
3 situations up to the standards established under this sec-  
4 tion. Such plan shall include a statement of the relative  
5 needs of each Bureau funded home-living (dormitory),  
6 projected future needs of each Bureau funded home-living  
7 (dormitory), detailed information on the status of each  
8 school in relation to the standards established under this  
9 section, specific cost estimates for meeting each standard  
10 for each such school, aggregate cost estimates for bringing  
11 all such schools into compliance with the criteria estab-  
12 lished under this section, and specific timelines for bring-  
13 ing each school into compliance with such standards.

14 “(d) WAIVER.—The criteria established under this  
15 section may be waived in the same manner as the stand-  
16 ards provided under section 1121(c) may be waived.

17 “(e) CLOSURE FOR FAILURE TO MEET STANDARDS  
18 PROHIBITED.—No school in operation on or before Janu-  
19 ary 1, 1987 (regardless of compliance or noncompliance  
20 with the criteria established under this section), may be  
21 closed, transferred to another authority, consolidated, or  
22 have its program substantially curtailed for failure to meet  
23 the criteria.



## IV-79

1 **“SEC. 1123. REGULATIONS.**

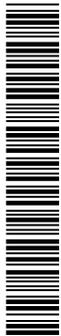
2       “(a) PART 32 OF TITLE 25 OF CODE OF FEDERAL  
3 REGULATIONS.—The provisions of part 32 of title 25 of  
4 the Code of Federal Regulations, as in effect on January  
5 1, 1987, are incorporated into this Act and shall be treat-  
6 ed as though such provisions are set forth in this sub-  
7 section. Such provisions may be altered only by means of  
8 an Act of Congress. To the extent that such provisions  
9 of part 32 do not conform with this Act or any statutory  
10 provision of law enacted before November 1, 1978, the  
11 provisions of this Act and the provisions of such other  
12 statutory law shall govern.

13       “(b) REGULATION DEFINED.—For purposes of this  
14 section, the term ‘regulation’ means any rules, regulations,  
15 guidelines, interpretations, orders, or requirements of gen-  
16 eral applicability prescribed by any officer or employee of  
17 the executive branch.

18 **“SEC. 1124. SCHOOL BOUNDARIES.**

19       “(a) ESTABLISHMENT BY SECRETARY.—The Sec-  
20 retary shall establish, by regulation, separate geographical  
21 attendance areas for each Bureau funded school.

22       “(b) ESTABLISHMENT BY TRIBAL BODY.—In any  
23 case where there is more than 1 Bureau funded school  
24 located on an Indian reservation, at the direction of the  
25 tribal governing body, the relevant school boards of the  
26 Bureau funded schools on the reservation may, by mutual



## IV-80

1 consent, establish the relevant attendance areas for such  
2 schools, subject to the approval of the tribal governing  
3 body. Any such boundaries so established shall be accepted  
4 by the Secretary.

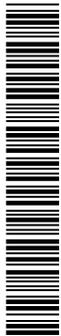
5 “(c) BOUNDARY REVISIONS.—

6 “(1) IN GENERAL.—On or after July 1, 1999,  
7 no geographical attendance area shall be revised or  
8 established with respect to any Bureau funded  
9 school unless the tribal governing body or the local  
10 school board concerned (if so designated by the trib-  
11 al governing body) has been afforded—

12 “(A) at least 6 months notice of the inten-  
13 tion of the Bureau to revise or establish such  
14 attendance area; and

15 “(B) the opportunity to propose alternative  
16 boundaries.

17 Any tribe may petition the Secretary for revision of  
18 existing attendance area boundaries. The Secretary  
19 shall accept such proposed alternative or revised  
20 boundaries unless the Secretary finds, after con-  
21 sultation with the affected tribe or tribes, that such  
22 revised boundaries do not reflect the needs of the In-  
23 dian students to be served or do not provide ade-  
24 quate stability to all of the affected programs. The



## IV-81

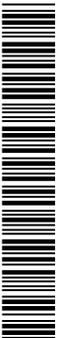
1 Secretary shall cause such revisions to be published  
2 in the Federal Register.

3 “(2) TRIBAL RESOLUTION DETERMINATION.—

4 Nothing in this section shall be interpreted as deny-  
5 ing a tribal governing body the authority, on a con-  
6 tinuing basis, to adopt a tribal resolution allowing  
7 parents the choice of the Bureau funded school their  
8 children may attend, regardless of the attendance  
9 boundaries established under this section.

10 “(d) FUNDING RESTRICTIONS.—The Secretary shall  
11 not deny funding to a Bureau funded school for any eligi-  
12 ble Indian student attending the school solely because that  
13 student’s home or domicile is outside of the geographical  
14 attendance area established for that school under this sec-  
15 tion. No funding shall be made available without tribal au-  
16 thorization to enable a school to provide transportation for  
17 any student to or from the school and a location outside  
18 the approved attendance area of the school.

19 “(e) RESERVATION AS BOUNDARY.—In any case  
20 where there is only 1 Bureau funded program located on  
21 an Indian reservation, the attendance area for the pro-  
22 gram shall be the boundaries of the reservation served,  
23 and those students residing near the reservation shall also  
24 receive services from such program.



## IV-82

1           “(f) OFF-RESERVATION HOME-LIVING (DORMITORY)  
2 SCHOOLS.— Notwithstanding any geographical attendance  
3 ares, attendance at off-reservation home-living (dormitory)  
4 schools shall include students requiring special emphasis  
5 programs to be implemented at each off-reservation home-  
6 living (dormitory) school. Such attendance shall be coordi-  
7 nated between education line officers, the family, and the  
8 referring and receiving programs.

9 **“SEC. 1125. FACILITIES CONSTRUCTION.**

10           “(a) COMPLIANCE WITH HEALTH AND SAFETY  
11 STANDARDS.—The Secretary shall immediately begin to  
12 bring all schools, dormitories, and other Indian education-  
13 related facilities operated by the Bureau or under contract  
14 or grant with the Bureau into compliance with all applica-  
15 ble tribal, Federal, or State health and safety standards,  
16 whichever provides greater protection, (except that the  
17 tribal standards to be applied shall be no greater than any  
18 otherwise applicable Federal or State standards), with sec-  
19 tion 504 of the Rehabilitation Act of 1973, and with the  
20 Americans with Disabilities Act of 1990. Nothing in this  
21 section shall require termination of the operations of any  
22 facility which does not comply with such provisions and  
23 which is in use on the date of enactment of the Student  
24 Results Act of 1999.

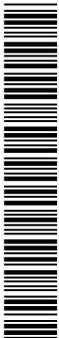


## IV-83

1       “(b) COMPLIANCE PLAN.—At the time that the an-  
2 nual budget request for Bureau educational services is  
3 presented, the Secretary shall submit to the appropriate  
4 committees of Congress a detailed plan to bring all facili-  
5 ties covered under subsection (a) of this section into com-  
6 pliance with the standards referred to in subsection (a).  
7 Such plan shall include detailed information on the status  
8 of each facility’s compliance with such standards, specific  
9 cost estimates for meeting such standards at each school,  
10 and specific timelines for bringing each school into compli-  
11 ance with such standards.

12       “(c) CONSTRUCTION PRIORITIES.—

13           “(1) SYSTEM TO ESTABLISH PRIORITIES.—On  
14 an annual basis the Secretary shall submit to the  
15 appropriate committees of Congress and cause to be  
16 published in the Federal Register, the system used  
17 to establish priorities for replacement and construc-  
18 tion projects for Bureau funded schools and, where  
19 appropriate, home-living (dormitory) schools. At the  
20 time any budget request for education is presented,  
21 the Secretary shall publish in the Federal Register  
22 and submit with the budget request the current list  
23 of all Bureau funded school construction priorities.



## IV-84

1           “(2) LONG-TERM CONSTRUCTION AND RE-  
2           PLACEMENT LIST.—In addition to the plan sub-  
3           mitted under subsection (b), the Secretary shall—

4                   (A) not later than 18 months after the  
5                   date of enactment of the Student Results Act of  
6                   1999, establish a long-term construction and re-  
7                   placement list for all Bureau funded schools;

8                   (B) using the list prepared under subpara-  
9                   graph (A), propose a list for the orderly re-  
10                  placement of all Bureau funded education-re-  
11                  lated facilities over a period of 40 years to en-  
12                  able planning and scheduling of budget re-  
13                  quests;

14                  (C) cause this list prepared under sub-  
15                  section (B) to be published in the Federal Reg-  
16                  ister and allow a period of not less than 120  
17                  days for public comment;

18                  (D) make such revisions to the list pre-  
19                  pared under subparagraph (B) as are appro-  
20                  priate based on the comments received; and

21                  (E) cause the final list to be published in  
22                  the Federal Register.

23           “(3) EFFECT ON OTHER LIST.—Nothing in this  
24           section shall be construed as interfering with or  
25           changing in any way the construction priority list as



## IV-85

1 it exists on the date of the enactment of the Student  
2 Results Act of 1999.

3 “(d) HAZARDOUS CONDITION AT BUREAU  
4 SCHOOL.—

5 “(1) CLOSURE OR CONSOLIDATION.—A Bureau  
6 funded school may be closed or consolidated, and the  
7 programs of a Bureau funded school may be sub-  
8 stantially curtailed by reason of plant conditions  
9 that constitute an immediate hazard to health and  
10 safety only if a health and safety officer of the Bu-  
11 reau determines that such conditions exist at the  
12 Bureau funded school.

13 “(2) INSPECTION.—(A) After making a deter-  
14 mination described in paragraph (1), the Bureau  
15 health and safety officer shall conduct an inspection  
16 of the condition of such plant accompanied by an ap-  
17 propriate tribal, county, municipal, or State health  
18 and safety officer in order to determine whether con-  
19 ditions at such plant constitute an immediate hazard  
20 to health and safety. Such inspection shall be com-  
21 pleted by not later than the date that is 30 days  
22 after the date on which the action described in para-  
23 graph (1) is taken. No further negative action may  
24 be taken unless the findings are concurred in by the  
25 second, non-Bureau of Indian Affairs inspector.



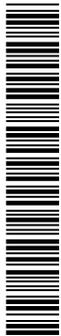
## IV-86

1           “(B) If the health and safety officer conducting  
2           the inspection of a plant required under subpara-  
3           graph (A) determines that conditions at the plant do  
4           not constitute an immediate hazard to health and  
5           safety, any consolidation or curtailment that was  
6           made under paragraph (1) shall immediately cease  
7           and any school closed by reason of conditions at the  
8           plant shall be reopened immediately.

9           “(C) If a Bureau funded school is temporarily  
10          closed or consolidated or the programs of a Bureau  
11          funded school are substantially curtailed under this  
12          subsection and the Secretary determines that the  
13          closure, consolidation, or curtailment will exceed 1  
14          year, the Secretary shall submit to the Congress, by  
15          not later than 6 months after the date on which the  
16          closure, consolidation, or curtailment was initiated, a  
17          report which sets forth the reasons for such tem-  
18          porary actions, the actions the Secretary is taking to  
19          eliminate the conditions that constitute the hazard,  
20          and an estimated date by which such actions will be  
21          concluded.

22          “(e) FUNDING REQUIREMENT.—

23                 “(1) DISTRIBUTION OF FUNDS.—Beginning  
24                 with the fiscal year following the year of the date of  
25                 the enactment of the Student Results Act of 1999,



## IV-87

1 all funds appropriated for the operations and main-  
2 tenance of Bureau funded schools shall be distrib-  
3 uted by formula to the schools. No funds from this  
4 account may be retained or segregated by the Bu-  
5 reau to pay for administrative or other costs of any  
6 facilities branch or office, at any level of the Bureau.

7 “(2) REQUIREMENTS FOR CERTAIN USES.—No  
8 funds shall be withheld from the distribution to the  
9 budget of any school operated under contract or  
10 grant by the Bureau for maintenance or any other  
11 facilities or road related purpose, unless such school  
12 has consented, as a modification to the contract or  
13 in writing for grants schools, to the withholding of  
14 such funds, including the amount thereof, the pur-  
15 pose for which the funds will be used, and the  
16 timeline for the services to be provided. The school  
17 may, at the end of any fiscal year, cancel an agree-  
18 ment under this paragraph upon giving the Bureau  
19 30 days notice of its intent to do so.

20 “(f) NO REDUCTION IN FEDERAL FUNDING.—Noth-  
21 ing in this section shall be construed to diminish any Fed-  
22 eral funding due to the receipt by the school of funding  
23 for facilities improvement or construction from a State or  
24 any other source.



## IV-88

1 **“SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNC-**  
2 **TIONS.**

3 “(a) FORMULATION AND ESTABLISHMENT OF POL-  
4 ICY AND PROCEDURE; SUPERVISION OF PROGRAMS AND  
5 EXPENDITURES.—The Secretary shall vest in the Assist-  
6 ant Secretary for Indian Affairs all functions with respect  
7 to formulation and establishment of policy and procedure  
8 and supervision of programs and expenditures of Federal  
9 funds for the purpose of Indian education administered  
10 by the Bureau. The Assistant Secretary shall carry out  
11 such functions through the Director of the Office of Indian  
12 Education Programs.

13 “(b) DIRECTION AND SUPERVISION OF PERSONNEL  
14 OPERATIONS.—Not later than 6 months after the date of  
15 the enactment of the Student Results Act of 1999, the  
16 Director of the Office of Indian Education Programs shall  
17 direct and supervise the operations of all personnel di-  
18 rectly and substantially involved in the provision of edu-  
19 cation services by the Bureau, including school or institu-  
20 tion custodial or maintenance personnel, facilities manage-  
21 ment, contracting, procurement, and finance personnel.  
22 The Assistant Secretary for Indian Affairs shall coordi-  
23 nate the transfer of functions relating to procurement,  
24 contracts, operation, and maintenance to schools and  
25 other support functions to the Director.



## IV-89

1           “(c) EVALUATION OF PROGRAMS; SERVICES AND  
2 SUPPORT FUNCTIONS; TECHNICAL AND COORDINATING  
3 ASSISTANCE.—Education personnel who are under the di-  
4 rection and supervision of the Director of the Office of  
5 Indian Education Programs in accordance with the first  
6 sentence of subsection (b) shall—

7           “(1) monitor and evaluate Bureau education  
8 programs;

9           “(2) provide all services and support functions  
10 for education programs with respect to personnel  
11 matters involving staffing actions and functions; and

12           “(3) provide technical and coordinating assist-  
13 ance in areas such as procurement, contracting,  
14 budgeting, personnel, curriculum, and operation and  
15 maintenance of school facilities.

16           “(d) CONSTRUCTION, IMPROVEMENT, OPERATION,  
17 AND MAINTENANCE OF FACILITIES.—

18           “(1) PLAN FOR CONSTRUCTION.—The Assistant  
19 Secretary shall submit in the annual budget a  
20 plan—

21           “(A) for school facilities to be constructed  
22 under section 1125(c);

23           “(B) for establishing priorities among  
24 projects and for the improvement and repair of  
25 educational facilities, which together shall form



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1 the basis for the distribution of appropriated  
2 funds; and

3 “(C) for capital improvements to be made  
4 over the 5 succeeding years.

5 “(2) PROGRAM FOR OPERATION AND MAINTEN-  
6 NANCE.—

7 “(A) IN GENERAL.—The Assistant Sec-  
8 retary shall establish a program, including the  
9 distribution of appropriated funds, for the oper-  
10 ation and maintenance of education facilities.  
11 Such program shall include—

12 “(i) a method of computing the  
13 amount necessary for each educational fa-  
14 cility;

15 “(ii) similar treatment of all Bureau  
16 funded schools;

17 “(iii) a notice of an allocation of ap-  
18 propriated funds from the Director of the  
19 Office of Indian Education Programs di-  
20 rectly to the education line officers and ap-  
21 propriate school officials;

22 “(iv) a method for determining the  
23 need for, and priority of, facilities repair  
24 and maintenance projects, both major and  
25 minor. In making such determination, the



IV-91

1 Assistant Secretary shall cause to be con-  
2 ducted a series of meetings at the agency  
3 and area level with representatives of the  
4 Bureau funded schools in those areas and  
5 agencies to receive comment on the lists  
6 and prioritization of such projects; and

7 “(v) a system for the conduct of rou-  
8 tine preventive maintenance.

9 “(B) The appropriate education line offi-  
10 cers shall make arrangements for the mainte-  
11 nance of education facilities with the local su-  
12 pervisors of the Bureau maintenance personnel.  
13 The local supervisors of Bureau maintenance  
14 personnel shall take appropriate action to im-  
15 plement the decisions made by the appropriate  
16 education line officers, except that no funds  
17 under this chapter may be authorized for ex-  
18 penditure unless such appropriate education  
19 line officer is assured that the necessary main-  
20 tenance has been, or will be, provided in a rea-  
21 sonable manner.

22 “(3) IMPLEMENTATION.—The requirements of  
23 this subsection shall be implemented as soon as  
24 practicable after the date of the enactment of the  
25 Student Results Act of 1999.



## IV-92

1           “(e) ACCEPTANCE OF GIFTS AND BEQUESTS.—Not-  
2 withstanding any other provision of law, the Director shall  
3 promulgate guidelines for the establishment of mecha-  
4 nisms for the acceptance of gifts and bequests for the use  
5 and benefit of particular schools or designated Bureau op-  
6 erated education programs, including, where appropriate,  
7 the establishment and administration of trust funds.  
8 When a Bureau operated program is the beneficiary of  
9 such a gift or bequest, the Director shall make provisions  
10 for monitoring its use and shall report to the appropriate  
11 committees of Congress the amount and terms of such gift  
12 or bequest, the manner in which such gift or bequest shall  
13 be used, and any results achieved by such action.

14           “(f) FUNCTIONS CLARIFIED.—For the purpose of  
15 this section, the term ‘functions’ includes powers and du-  
16 ties.

17 **“SEC. 1127. ALLOTMENT FORMULA.**

18           “(a) FACTORS CONSIDERED; REVISION TO REFLECT  
19 STANDARDS.—

20                   “(1) FORMULA.—The Secretary shall establish,  
21 by regulation adopted in accordance with section  
22 1138, a formula for determining the minimum an-  
23 nual amount of funds necessary to sustain each Bu-  
24 reau funded school. In establishing such formula,  
25 the Secretary shall consider—



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- 1           “(A) the number of eligible Indian stu-
- 2 dents served and total student population of the
- 3 school;
- 4           “(B) special cost factors, such as—
- 5               “(i) the isolation of the school;
- 6               “(ii) the need for special staffing,
- 7 transportation, or educational programs;
- 8               “(iii) food and housing costs;
- 9               “(iv) maintenance and repair costs as-
- 10 sociated with the physical condition of the
- 11 educational facilities;
- 12               “(v) special transportation and other
- 13 costs of isolated and small schools;
- 14               “(vi) the costs of home-living (dor-
- 15 mitory) arrangements, where determined
- 16 necessary by a tribal governing body or
- 17 designated school board;
- 18               “(vii) costs associated with greater
- 19 lengths of service by education personnel;
- 20               “(viii) the costs of therapeutic pro-
- 21 grams for students requiring such pro-
- 22 grams; and
- 23               “(ix) special costs for gifted and tal-
- 24 ented students;



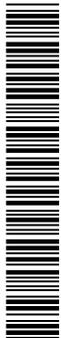
## IV-94

1           “(C) the cost of providing academic serv-  
2           ices which are at least equivalent to those pro-  
3           vided by public schools in the State in which  
4           the school is located; and

5           “(D) such other relevant factors as the  
6           Secretary determines are appropriate.

7           “(2) REVISION OF FORMULA.—Upon the estab-  
8           lishment of the standards required in sections 1121  
9           and 1122, the Secretary shall revise the formula es-  
10          tablished under this subsection to reflect the cost  
11          and funding such standards. Not later than January  
12          1, 2001, the Secretary shall review the formula es-  
13          tablished under this section and shall take such  
14          steps as are necessary to increase the availability of  
15          counseling and therapeutic programs for students in  
16          off-reservation home-living (dormitory) schools and  
17          other Bureau operated residential facilities. Concur-  
18          rent with such action, the Secretary shall review the  
19          standards established under section 1122 to be cer-  
20          tain that adequate provision is made for parental no-  
21          tification regarding, and consent for, such counseling  
22          and therapeutic programs.

23          “(b) PRO RATA ALLOTMENT.—Notwithstanding any  
24          other provision of law, Federal funds appropriated for the  
25          general local operation of Bureau funded schools shall be



## IV-95

1 allotted pro rata in accordance with the formula estab-  
2 lished under subsection (a).

3 “(c) ANNUAL ADJUSTMENT; RESERVATION OF  
4 AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

5 “(1) ANNUAL ADJUSTMENT.—For fiscal year  
6 2001, and for each subsequent fiscal year, the Sec-  
7 retary shall adjust the formula established under  
8 subsection (a) to—

9 “(A) use a weighted unit of 1.2 for each el-  
10 igible Indian student enrolled in the seventh  
11 and eighth grades of the school in considering  
12 the number of eligible Indian students served  
13 by the school;

14 “(B) consider a school with an enrollment  
15 of less than 50 eligible Indian students as hav-  
16 ing an average daily attendance of 50 eligible  
17 Indian students for purposes of implementing  
18 the adjustment factor for small schools;

19 “(C) take into account the provision of res-  
20 idential services on less than a 9-month basis at  
21 a school when the school board and supervisor  
22 of the school determine that a less than 9-  
23 month basis will be implemented for the school  
24 year involved;



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1           “(D) use a weighted unit of 2.0 for each  
2 eligible Indian student that—

3                   (i) is gifted and talented; and

4                   (ii) is enrolled in the school on a full  
5 time basis,

6 in considering the number of eligible Indian  
7 students served by the school; and

8           “(E) use a weighted unit of 0.25 for each  
9 eligible Indian student who is enrolled in a year  
10 long credit course in an Indian or Native lan-  
11 guage as part of the regular curriculum of a  
12 school, in considering the number of eligible In-  
13 dian students served by such school.

14 The adjustment required under subparagraph (E)  
15 shall be used for such school after—

16           “(i) the certification of the Indian or Na-  
17 tive language curriculum by the school board of  
18 such school to the Secretary, together with an  
19 estimate of the number of full-time students ex-  
20 pected to be enrolled in the curriculum in the  
21 second school year for which the certification is  
22 made; and

23           (ii) the funds appropriated for allotment  
24 under this section are designated by the appro-  
25 priations Act appropriating such funds as the



## IV-97

1 amount necessary to implement such adjust-  
2 ment at such school without reducing allot-  
3 ments made under this section to any school by  
4 virtue of such adjustment.

5 “(2) RESERVATION OF AMOUNT.—

6 “(A) IN GENERAL.—From the funds allot-  
7 ted in accordance with the formula established  
8 under subsection (a) for each Bureau school,  
9 the local school board of such school may re-  
10 serve an amount which does not exceed the  
11 greater of—

12 “(i) \$8,000; or

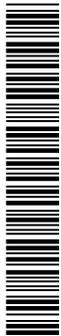
13 “(ii) the lesser of—

14 “(I) \$15,000; or

15 “(II) 1 percent of such allotted  
16 funds,

17 for school board activities for such school, in-  
18 cluding (notwithstanding any other provision of  
19 law) meeting expenses and the cost of member-  
20 ship in, and support of, organizations engaged  
21 in activities on behalf of Indian education.

22 “(B) TRAINING.—Each school board shall  
23 see that each new member of the school board  
24 receives, within 12 months of the individual’s  
25 assuming a position on the school board, 40



## IV-98

1 hours of training relevant to that individual's  
2 service on the board. Such training may include  
3 legal issues pertaining to schools funded by the  
4 Bureau, legal issues pertaining to school  
5 boards, ethics, and other topics deemed appro-  
6 priate by the school board.

7 “(d) RESERVATION OF AMOUNT FOR EMER-  
8 GENCIES.—The Secretary shall reserve from the funds  
9 available for distribution for each fiscal year under this  
10 section an amount which, in the aggregate, shall equal 1  
11 percent of the funds available for such purpose for that  
12 fiscal year. Such funds shall be used, at the discretion of  
13 the Director of the Office of Indian Education Programs,  
14 to meet emergencies and unforeseen contingencies affect-  
15 ing the education programs funded under this section.  
16 Funds reserved under this subsection may only be ex-  
17 pended for education services or programs, including  
18 emergency repairs of educational facilities, at a schoolsite  
19 (as defined by section 5204(e)(2) of the Tribally Con-  
20 trolled Schools Act of 1988). Funds reserved under this  
21 subsection shall remain available without fiscal year limi-  
22 tation until expended. However, the aggregate amount  
23 available from all fiscal years may not exceed 1 percent  
24 of the current year funds. Whenever, the Secretary makes  
25 funds available under this subsection, the Secretary shall



## IV-99

1 report such action to the appropriate committees of Con-  
2 gress within the annual budget submission.

3 “(e) SUPPLEMENTAL APPROPRIATIONS.—Supple-  
4 mental appropriations enacted to meet increased pay costs  
5 attributable to school level personnel shall be distributed  
6 under this section.

7 “(f) ELIGIBLE INDIAN STUDENT DEFINED.—For the  
8 purpose of this section, the term ‘eligible Indian student’  
9 means a student who—

10 “(1) is a member of or is at least  $\frac{1}{4}$  degree In-  
11 dian blood descendant of a member of an Indian  
12 tribe which is eligible for the special programs and  
13 services provided by the United States through the  
14 Bureau because of their status as Indians; and

15 “(2) resides on or near an Indian reservation or  
16 meets the criteria for attendance at a Bureau off-  
17 reservation home-living (dormitory) school.

18 “(g) TUITION.—

19 “(1) IN GENERAL.—An eligible Indian student  
20 may not be charged tuition for attendance at a Bu-  
21 reau school or contract or grant school. A student  
22 attending a Bureau school under paragraph (2)(C)  
23 may not be charged tuition for attendance at such  
24 a school.



## IV-100

1           “(2) ATTENDANCE OF NON-INDIAN STUDENTS  
2           AT BUREAU SCHOOLS.—The Secretary may permit  
3           the attendance at a Bureau school of a student who  
4           is not an eligible Indian student if—

5                   “(A) the Secretary determines that the  
6                   student’s attendance will not adversely affect  
7                   the school’s program for eligible Indian stu-  
8                   dents because of cost, overcrowding, or violation  
9                   of standards or accreditation;

10                   “(B) the school board consents;

11                   “(C) the student is a dependent of a Bu-  
12                   reau, Indian Health Service, or tribal govern-  
13                   ment employee who lives on or near the school  
14                   site; or

15                   “(D) a tuition is paid for the student that  
16                   is not more than that charged by the nearest  
17                   public school district for out-of-district stu-  
18                   dents, and shall be in addition to the school’s  
19                   allocation under this section.

20           “(3) ATTENDANCE OF NON-INDIAN STUDENTS  
21           AT CONTRACT AND GRANT SCHOOLS.— The school  
22           board of a contract or grant school may permit stu-  
23           dents who are not eligible Indian students under this  
24           subsection to attend its contract school or grant  
25           school and any tuition collected for those students



## IV-101

1 shall be in addition to funding received under this  
2 section.

3 “(h) FUNDS AVAILABLE WITHOUT FISCAL YEAR  
4 LIMITATION.—Notwithstanding any other provision of  
5 law, at the election of the school board of a Bureau school  
6 made at any time during the fiscal year, a portion equal  
7 to not more than 15 percent of the funds allocated with  
8 respect to a school under this section for any fiscal year  
9 shall remain available to the school for expenditure with-  
10 out fiscal year limitation. The Assistant Secretary shall  
11 take steps as may be necessary to implement this provi-  
12 sion.

13 “(i) STUDENTS AT RICHFIELD DORMITORY, RICH-  
14 FIELD, UTAH.—Tuition for out-of-State Indian students  
15 in home-living (dormitory) arrangements at the Richfield  
16 dormitory in Richfield, Utah, who attend Sevier County  
17 high schools in Richfield, Utah, shall be paid from the In-  
18 dian school equalization program funds authorized in this  
19 section and section 1130 at a rate not to exceed the  
20 amounts per weighted student unit for that year for the  
21 instruction of such students. No additional administrative  
22 cost funds shall be added to the grant.

23 **“SEC. 1128. ADMINISTRATIVE COST GRANTS.**

24 “(a) GRANTS; EFFECT UPON APPROPRIATED  
25 AMOUNTS.—



## IV-102

1           “(1) GRANTS.—Subject to the availability of  
2           appropriated funds, the Secretary shall provide  
3           grants to each tribe or tribal organization operating  
4           a contract school or grant school in the amount de-  
5           termined under this section with respect to the tribe  
6           or tribal organization for the purpose of paying the  
7           administrative and indirect costs incurred in oper-  
8           ating contract or grant schools, provided that no  
9           school operated as a stand alone institution shall re-  
10          ceive less than \$200,000.00 per year for these pur-  
11          poses, in order to—

12                   “(A) enable tribes and tribal organizations  
13                   operating such schools, without reducing direct  
14                   program services to the beneficiaries of the pro-  
15                   gram, to provide all related administrative over-  
16                   head services and operations necessary to meet  
17                   the requirements of law and prudent manage-  
18                   ment practice; and

19                   “(B) carry out other necessary support  
20                   functions which would otherwise be provided by  
21                   the Secretary or other Federal officers or em-  
22                   ployees, from resources other than direct pro-  
23                   gram funds, in support of comparable Bureau  
24                   operated programs.



## IV-103

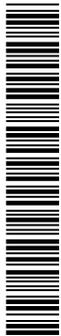
1           “(2) EFFECT UPON APPROPRIATED  
2 AMOUNTS.—Amounts appropriated to fund the  
3 grants provided under this section shall be in addi-  
4 tion to, and shall not reduce, the amounts appro-  
5 priated for the program being administered by the  
6 contract or grant school.

7           “(b) DETERMINATION OF GRANT AMOUNT.—

8           “(1) IN GENERAL.—The amount of the grant  
9 provided to each tribe or tribal organization under  
10 this section for each fiscal year shall be determined  
11 by applying the administrative cost percentage rate  
12 of the tribe or tribal organization to the aggregate  
13 of the Bureau elementary and secondary functions  
14 operated by the tribe or tribal organization for which  
15 funds are received from or through the Bureau. The  
16 administrative cost percentage rate determined  
17 under subsection (c) does not apply to other pro-  
18 grams operated by the tribe or tribal organization.

19           “(2) DIRECT COST BASE FUNDS.—The Sec-  
20 retary shall—

21           “(A) reduce the amount of the grant deter-  
22 mined under paragraph (1) to the extent that  
23 payments for administrative costs are actually  
24 received by an Indian tribe or tribal organiza-  
25 tion under any Federal education program in-



## IV-104

1           cluded in the direct cost base of the tribe or  
2           tribal organization; and

3           “(B) take such actions as may be nec-  
4           essary to be reimbursed by any other depart-  
5           ment or agency of the Federal Government for  
6           the portion of grants made under this section  
7           for the costs of administering any program for  
8           Indians that is funded by appropriations made  
9           to such other department or agency.

10          “(c) ADMINISTRATIVE COST PERCENTAGE RATE.—

11           “(1) IN GENERAL.—For purposes of this sec-  
12          tion, the administrative cost percentage rate for a  
13          contract or grant school for a fiscal year is equal to  
14          the percentage determined by dividing—

15           “(A) the sum of—

16           “(i) the amount equal to—

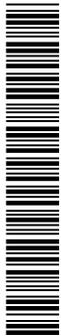
17           “(I) the direct cost base of the  
18           tribe or tribal organization for the fis-  
19           cal year, multiplied by

20           “(II) the minimum base rate;  
21           plus

22           “(ii) the amount equal to—

23           “(I) the standard direct cost  
24           base; multiplied by

25           “(II) the maximum base rate; by



## IV-105

1 “(B) the sum of—

2 “(i) the direct cost base of the tribe or  
3 tribal organization for the fiscal year; plus

4 “(ii) the standard direct cost base.

5 “(2) ROUNDING.—The administrative cost per-  
6 centage rate shall be determined to the  $\frac{1}{100}$  of a  
7 decimal point.

8 “(d) COMBINING FUNDS.—

9 “(1) IN GENERAL.—Funds received by a tribe  
10 or contract or grant school as grants under this sec-  
11 tion for tribal elementary or secondary educational  
12 programs may be combined by the tribe or contract  
13 or grant school into a single administrative cost ac-  
14 count without the necessity of maintaining separate  
15 funding source accounting.

16 “(2) INDIRECT COST FUNDS.—Indirect cost  
17 funds for programs at the school which share com-  
18 mon administrative services with tribal elementary  
19 or secondary educational programs may be included  
20 in the administrative cost account described in para-  
21 graph (1).

22 “(e) AVAILABILITY OF FUNDS.—Funds received as  
23 grants under this section with respect to tribal elementary  
24 or secondary education programs shall remain available to  
25 the contract or grant school without fiscal year limitation



## IV-106

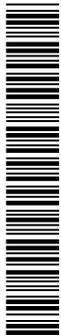
1 and without diminishing the amount of any grants other-  
2 wise payable to the school under this section for any fiscal  
3 year beginning after the fiscal year for which the grant  
4 is provided.

5 “(f) TREATMENT OF FUNDS.—Funds received as  
6 grants under this section for Bureau funded programs op-  
7 erated by a tribe or tribal organization under a contract  
8 or agreement shall not be taken into consideration for pur-  
9 poses of indirect cost underrecovery and overrecovery de-  
10 terminations by any Federal agency for any other funds,  
11 from whatever source derived.

12 “(g) TREATMENT OF ENTITY OPERATING OTHER  
13 PROGRAMS.—In applying this section and section 105 of  
14 the Indian Self-Determination and Education Assistance  
15 Act with respect to an Indian tribe or tribal organization  
16 that—

17 “(1) receives funds under this section for ad-  
18 ministrative costs incurred in operating a contract or  
19 grant school or a school operated under the Tribally  
20 Controlled Schools Act of 1988; and

21 “(2) operates 1 or more other programs under  
22 a contract or grant provided under the Indian Self-  
23 Determination and Education Assistance Act;  
24 the Secretary shall ensure that the Indian tribe or tribal  
25 organization is provided with the full amount of the ad-



## IV-107

1 ministrative costs that are associated with operating the  
2 contract or grant school, and of the indirect costs, that  
3 are associated with all of such other programs, provided  
4 that funds appropriated for implementation of this section  
5 shall be used only to supply the amount of the grant re-  
6 quired to be provided by this section.

7 “(h) DEFINITIONS.—For purposes of this section:

8 “(1) ADMINISTRATIVE COST.—(A) The term  
9 ‘administrative cost’ means the costs of necessary  
10 administrative functions which—

11 “(i) the tribe or tribal organization incurs  
12 as a result of operating a tribal elementary or  
13 secondary educational program;

14 “(ii) are not customarily paid by com-  
15 parable Bureau operated programs out of direct  
16 program funds; and

17 “(iii) are either—

18 “(I) normally provided for comparable  
19 Bureau programs by Federal officials  
20 using resources other than Bureau direct  
21 program funds; or

22 “(II) are otherwise required of tribal  
23 self-determination program operators by  
24 law or prudent management practice.



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1           “(B) The term ‘administrative cost’ may  
2 include—

3           “(i) contract or grant (or other agreement)  
4 administration;

5           “(ii) executive, policy, and corporate lead-  
6 ership and decisionmaking;

7           “(iii) program planning, development, and  
8 management;

9           “(iv) fiscal, personnel, property, and pro-  
10 curement management;

11           “(v) related office services and record  
12 keeping; and

13           “(vi) costs of necessary insurance, audit-  
14 ing, legal, safety and security services.

15           “(2) BUREAU ELEMENTARY AND SECONDARY  
16 FUNCTIONS.—The term ‘Bureau elementary and sec-  
17 ondary functions’ means—

18           “(A) all functions funded at Bureau  
19 schools by the Office;

20           “(B) all programs—

21           “(i) funds for which are appropriated  
22 to other agencies of the Federal Govern-  
23 ment; and



## IV-109

1                   “(ii) which are administered for the  
2                   benefit of Indians through Bureau schools;  
3                   and

4                   “(C) all operation, maintenance, and repair  
5                   funds for facilities and government quarters  
6                   used in the operation or support of elementary  
7                   and secondary education functions for the ben-  
8                   efit of Indians, from whatever source derived.

9                   “(3) DIRECT COST BASE.—(A) Except as other-  
10                  wise provided in subparagraph (B), the direct cost  
11                  base of a tribe or tribal organization for the fiscal  
12                  year is the aggregate direct cost program funding  
13                  for all tribal elementary or secondary educational  
14                  programs operated by the tribe or tribal organization  
15                  during—

16                  “(i) the second fiscal year preceding such  
17                  fiscal year; or

18                  “(ii) if such programs have not been oper-  
19                  ated by the tribe or tribal organization during  
20                  the 2 preceding fiscal years, the first fiscal year  
21                  preceding such fiscal year.

22                  “(B) In the case of Bureau elementary or sec-  
23                  ondary education functions which have not pre-  
24                  viously been operated by a tribe or tribal organiza-  
25                  tion under contract, grant, or agreement with the



## IV-110

1 Bureau, the direct cost base for the initial year shall  
2 be the projected aggregate direct cost program fund-  
3 ing for all Bureau elementary and secondary func-  
4 tions to be operated by the tribe or tribal organiza-  
5 tion during that fiscal year.

6 “(4) MAXIMUM BASE RATE.—The term ‘max-  
7 imum base rate’ means 50 percent.

8 “(5) MINIMUM BASE RATE.—The term ‘min-  
9 imum base rate’ means 11 percent.

10 “(6) STANDARD DIRECT COST BASE.—The term  
11 ‘standard direct cost base’ means \$600,000.

12 “(7) TRIBAL ELEMENTARY OR SECONDARY  
13 EDUCATIONAL PROGRAMS.—The term ‘tribal elemen-  
14 tary or secondary educational programs’ means all  
15 Bureau elementary and secondary functions, to-  
16 gether with any other Bureau programs or portions  
17 of programs (excluding funds for social services that  
18 are appropriated to agencies other than the Bureau  
19 and are expended through the Bureau, funds for  
20 major subcontracts, construction, and other major  
21 capital expenditures, and unexpended funds carried  
22 over from prior years) which share common adminis-  
23 trative cost functions, that are operated directly by  
24 a tribe or tribal organization under a contract,  
25 grant, or agreement with the Bureau.



## IV-111

1       “(i) STUDIES FOR DETERMINATION OF ACTORS AF-  
2 FECTING COSTS; BASE RATES LIMITS; STANDARD DI-  
3 RECT COST BASE; REPORT TO CONGRESS.—

4               “(1) STUDIES.—Not later than 120 days after  
5 the date of enactment of the Student Results Act of  
6 1999, the Director of the Office of Indian Education  
7 Programs shall—

8                       “(A) conduct such studies as may be need-  
9 ed to establish an empirical basis for deter-  
10 mining relevant factors substantially affecting  
11 required administrative costs of tribal elemen-  
12 tary and secondary education programs, using  
13 the formula set forth in subsection (c); and

14                       “(B) conduct a study to determine—

15                               “(i) a maximum base rate which ensures  
16 that the amount of the grants provided under  
17 this section will provide adequate (but not ex-  
18 cessive) funding of the administrative costs of  
19 the smallest tribal elementary or secondary edu-  
20 cational programs;

21                               “(ii) a minimum base rate which ensures  
22 that the amount of the grants provided under  
23 this section will provide adequate (but not ex-  
24 cessive) funding of the administrative costs of



## IV-112

1 the largest tribal elementary or secondary edu-  
2 cational programs; and

3 “(iii) a standard direct cost base which is  
4 the aggregate direct cost funding level for which  
5 the percentage determined under subsection (c)  
6 will—

7 “(I) be equal to the median between  
8 the maximum base rate and the minimum  
9 base rate; and

10 “(II) ensure that the amount of the  
11 grants provided under this section will pro-  
12 vide adequate (but not excessive) funding  
13 of the administrative costs of tribal ele-  
14 mentary or secondary educational pro-  
15 grams closest to the size of the program.

16 “(2) GUIDELINES.—The studies required under  
17 paragraph (1) shall—

18 “(A) be conducted in full consultation (in  
19 accordance with section 1131) with—

20 “(i) the tribes and tribal organizations  
21 that are affected by the application of the  
22 formula set forth in subsection (c); and

23 “(ii) all national and regional Indian  
24 organizations of which such tribes and  
25 tribal organizations are typically members;



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1           “(B) be conducted onsite with a represent-  
2           ative statistical sample of the tribal elementary  
3           or secondary educational programs under a con-  
4           tract entered into with a nationally reputable  
5           public accounting and business consulting firm;

6           “(C) take into account the availability of  
7           skilled labor; commodities, business and auto-  
8           matic data processing services, related Indian  
9           preference and Indian control of education re-  
10          quirements, and any other market factors found  
11          substantially to affect the administrative costs  
12          and efficiency of each such tribal elementary or  
13          secondary educational program studied in order  
14          to assure that all required administrative activi-  
15          ties can reasonably be delivered in a cost effec-  
16          tive manner for each such program, given an  
17          administrative cost allowance generated by the  
18          values, percentages, or other factors found in  
19          the studies to be relevant in such formula;

20          “(D) identify, and quantify in terms of  
21          percentages of direct program costs, any gen-  
22          eral factors arising from geographic isolation,  
23          or numbers of programs administered, inde-  
24          pendent of program size factors used to com-



## IV-114

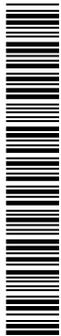
1           pute a base administrative cost percentage in  
2           such formula; and

3           “(E) identify any other incremental cost  
4           factors substantially affecting the costs of re-  
5           quired administrative cost functions at any of  
6           the tribal elementary or secondary educational  
7           programs studied and determine whether the  
8           factors are of general applicability to other such  
9           programs, and (if so) how the factors may ef-  
10          fectively be incorporated into such formula.

11          “(3) CONSULTATION WITH INSPECTOR GEN-  
12          ERAL.—In carrying out the studies required under  
13          this subsection, the Director shall obtain the input  
14          of, and afford an opportunity to participate to, the  
15          Inspector General of the Department of the Interior.

16          “(4) CONSIDERATION OF DELIVERY OF ADMIN-  
17          ISTRATIVE SERVICES.—Determinations described in  
18          paragraph (2)(C) shall be based on what is prac-  
19          ticable at each location studies, given prudent man-  
20          agement practice, irrespective of whether required  
21          administrative services were actually or fully deliv-  
22          ered at these sites, or whether other services were  
23          delivered instead, during the period of the study.

24          “(5) REPORT.—Upon completion of the studies  
25          conducted under paragraph (1), the Director shall



## IV-115

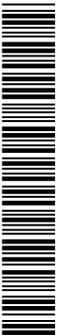
1 submit to Congress a report on the findings of the  
2 studies, together with determinations based upon  
3 such studies that would affect the definitions set  
4 forth under subsection (e) that are used in the for-  
5 mula set forth in subsection (e).

6 “(6) PROJECTION OF COSTS.—The Secretary  
7 shall include in the Bureau’s justification for each  
8 appropriations request beginning in the first fiscal  
9 year after the completion of the studies conducted  
10 under paragraph (1), a projection of the overall  
11 costs associated with the formula set forth in sub-  
12 section (e) for all tribal elementary or secondary  
13 education programs which the Secretary expects to  
14 be funded in the fiscal year for which the appropria-  
15 tions are sought.

16 “(7) DETERMINATION OF PROGRAM SIZE.—For  
17 purposes of this subsection, the size of tribal elemen-  
18 tary or secondary educational programs is deter-  
19 mined by the aggregate direct cost program funding  
20 level for all Bureau funded programs which share  
21 common administrative cost functions.

22 “(j) AUTHORIZATION OF APPROPRIATIONS.—

23 “(1) IN GENERAL.—There are authorized to be  
24 appropriated such sums as necessary to carry out  
25 this section.



## IV-116

1           “(2) REDUCTIONS.—If the total amount of  
2 funds necessary to provide grants to tribes and trib-  
3 al organizations in the amounts determined under  
4 subsection (b) for a fiscal year exceeds the amount  
5 of funds appropriated to carry out this section for  
6 such fiscal year, the Secretary shall reduce the  
7 amount of each grant determined under subsection  
8 (b) for such fiscal year by an amount that bears the  
9 same relationship to such excess as the amount of  
10 such grants determined under subsection (b) bears  
11 to the total of all grants determined under sub-  
12 section (b) section for all tribes and tribal organiza-  
13 tions for such fiscal year.

14           “(k) APPLICABILITY TO SCHOOLS OPERATING  
15 UNDER TRIBALLY CONTROLLED SCHOOLS ACT OF  
16 1988.—The provisions of this section shall also apply to  
17 those schools operating under the Tribally Controlled  
18 Schools Act of 1988.

19           **“SEC. 1129. DIVISION OF BUDGET ANALYSIS.**

20           “(a) ESTABLISHMENT.—Not later than 12 months  
21 after the date of the enactment of the Student Results  
22 Act of 1999, the Secretary shall establish within the Office  
23 of Indian Education Programs a Division of Budget Anal-  
24 ysis (hereinafter referred to as the ‘Division’). Such Divi-



## IV-117

1 sion shall be under the direct supervision and control of  
2 the Director of the Office.

3 “(b) FUNCTIONS.—In consultation with the tribal  
4 governing bodies and tribal school boards, the Director  
5 shall conduct studies, surveys, or other activities to gather  
6 demographic information on Bureau funded schools and  
7 project the amount necessary to provide Indian students  
8 in such schools the educational program set forth in this  
9 part.

10 “(c) ANNUAL REPORTS.—Not later than the date  
11 that the Assistant Secretary for Indian Affairs makes the  
12 annual budget submission, for each fiscal year after the  
13 date of the enactment of the Student Results Act of 1999,  
14 the Director of the Office shall submit to the appropriate  
15 committees of Congress (including the Appropriations  
16 committees), all Bureau funded schools, and the tribal  
17 governing bodies of such schools, a report which shall  
18 contain—

19 “(1) projections, based upon the information  
20 gathered pursuant to subparagraph (b) and any  
21 other relevant information, of amounts necessary to  
22 provide Indian students in Bureau funded schools  
23 the educational program set forth in this part;



## IV-118

1           “(2) a description of the methods and formulas  
2           used to calculate the amounts projected pursuant to  
3           paragraph (1); and

4           “(3) such other information as the Director of  
5           the Office considers appropriate.

6           “(d) USE OF REPORTS.—The Director of the Office  
7           and the Assistant Secretary for Indian Affairs shall use  
8           the annual report required by subsection (c) when pre-  
9           paring their annual budget submissions.

10   **“SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.**

11           “(a) ESTABLISHMENT OF SYSTEM AND FORWARD  
12           FUNDING.—

13           “(1) IN GENERAL.—The Secretary shall estab-  
14           lish, by regulation adopted in accordance with sec-  
15           tion 1138, a system for the direct funding and sup-  
16           port of all Bureau funded schools. Such system shall  
17           allot funds in accordance with section 1127. All  
18           amounts appropriated for distribution under this  
19           section may be made available under paragraph (2).

20           “(2) TIMING FOR USE OF FUNDS.—(A) For the  
21           purposes of affording adequate notice of funding  
22           available pursuant to the allotments made under sec-  
23           tion 1127, amounts appropriated in an appropria-  
24           tions Act for any fiscal year shall become available  
25           for obligation by the affected schools on July 1 of



## IV-119

1 the fiscal year in which such amounts are appro-  
2 priated without further action by the Secretary, and  
3 shall remain available for obligation through the suc-  
4 ceeding fiscal year.

5 “(B) The Secretary shall, on the basis of the  
6 amount appropriated in accordance with this  
7 paragraph—

8 “(i) publish, not later than July 1 of the  
9 fiscal year for which the funds are appro-  
10 priated, allotments to each affected school made  
11 under section 1127 of 85 percent of such ap-  
12 propriation; and

13 “(ii) publish, not later than September 30  
14 of such fiscal year, the allotments to be made  
15 under section 1127 of the remaining 15 percent  
16 of such appropriation, adjusted to reflect the  
17 actual student attendance.

18 “(3) LIMITATION.—(A) Notwithstanding any  
19 other provision of law or regulation, the supervisor  
20 of a Bureau funded school may expend an aggregate  
21 of not more than \$50,000 of the amount allotted the  
22 school under section 1127 to acquire materials, sup-  
23 plies, equipment, services, operation, and mainte-  
24 nance for the school without competitive bidding if—



## IV-120

1           “(i) the cost for any single item purchased  
2 does not exceed \$15,000;

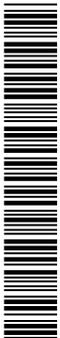
3           “(ii) the school board approves the pro-  
4 curement;

5           “(iii) the supervisor certifies that the cost  
6 is fair and reasonable;

7           “(iv) the documents relating to the pro-  
8 curement executed by the supervisor or other  
9 school staff cite this paragraph as authority for  
10 the procurement; and

11           “(v) the transaction is documented in a  
12 journal maintained at the school clearly identi-  
13 fying when the transaction occurred, what was  
14 acquired and from whom, the price paid, the  
15 quantities acquired, and any other information  
16 the supervisor or school board considers rel-  
17 evant.

18           “(B) Not later than 6 months after the date of  
19 enactment of the Student Results Act of 1999, the  
20 Secretary shall cause to be sent to each supervisor  
21 of a Bureau operated program and school board  
22 chairperson, the education line officer or officers of  
23 each agency and area, and the Bureau Division in  
24 charge of procurement, at both the local and na-  
25 tional levels, notice of this paragraph.



## IV-121

1           “(C) The Director shall be responsible for de-  
2           termining the application of this paragraph, includ-  
3           ing the authorization of specific individuals to carry  
4           out this paragraph, and shall be responsible for the  
5           provision of guidelines on the use of this paragraph  
6           and adequate training on such guidelines.

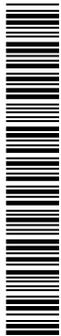
7           “(4) EFFECT OF SEQUESTRATION ORDER.—If a  
8           sequestration order issued under the Balanced  
9           Budget and Emergency Deficit Control Act of 1985  
10          reduces the amount of funds available for allotment  
11          under section 1127 for any fiscal year by more than  
12          7 percent of the amount of funds available for allot-  
13          ment under such section during the preceding fiscal  
14          year—

15                 “(A) to fund allotments under section  
16                 1127, the Secretary, notwithstanding any other  
17                 law, may use—

18                         “(i) funds appropriated for the oper-  
19                         ation of any Bureau school that is closed  
20                         or consolidated; and

21                         “(ii) funds appropriated for any pro-  
22                         gram that has been curtailed at any Bu-  
23                         reau school; and

24                 “(B) the Secretary may waive the applica-  
25                 tion of the provisions of section 1121(h) with



## IV-122

1           respect to the closure or consolidation of a  
2           school, or the curtailment of a program at a  
3           school, during such fiscal year if the funds de-  
4           scribed in clauses (i) and (ii) of subparagraph  
5           (A) with respect to such school are used to fund  
6           allotments made under section 1127 for such  
7           fiscal year.

8           “(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE  
9 OF FUNDS.—

10           “(1) PLAN REQUIRED.—(A) In the case of all  
11           Bureau operated schools, allotted funds shall be ex-  
12           pended on the basis of local financial plans which  
13           ensure meeting the accreditation requirements or  
14           standards for the school established pursuant to sec-  
15           tion 1122 and which shall be prepared by the local  
16           school supervisor in active consultation with the local  
17           school board for each school. The local school board  
18           for each school shall have the authority to ratify, re-  
19           ject, or amend such financial plan, and expenditures  
20           thereunder, and, on its own determination or in re-  
21           sponse to the supervisor of the school, to revise such  
22           financial plan to meet needs not foreseen at the time  
23           of preparation of the financial plan.

24           “(B) The supervisor—

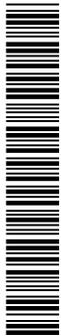


IV-123

1           “(i) shall put into effect the decisions of  
2 the school board;

3           “(ii) shall provide the appropriate union  
4 representative of the education employees with  
5 copies of proposed draft financial plans and all  
6 amendments or modifications thereto, at the  
7 same time such copies are submitted to the  
8 local school board; and

9           “(iii) may appeal any such action of the  
10 local school board to the appropriate education  
11 line officer of the Bureau agency by filing a  
12 written statement describing the action and the  
13 reasons the supervisor believes such action  
14 should be overturned. A copy of such statement  
15 shall be submitted to the local school board and  
16 such board shall be afforded an opportunity to  
17 respond, in writing, to such appeal. After re-  
18 viewing such written appeal and response, the  
19 appropriate education line officer may, for good  
20 cause, overturn the action of the local school  
21 board. The appropriate line education officer  
22 shall transmit the determination of such appeal  
23 in the form of a written opinion to such board  
24 and to such supervisor identifying the reasons  
25 for overturning such action.



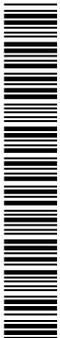
## IV-124

1           “(c) USE OF SELF-DETERMINATION GRANTS  
2 FUNDS.—Funds for self-determination grants under sec-  
3 tion 103(a)(2) of the Indian Self-Determination and Edu-  
4 cation Assistance Act shall not be used for providing tech-  
5 nical assistance and training in the field of education by  
6 the Bureau unless such services are provided in accord-  
7 ance with a plan, agreed to by the tribe or tribes affected  
8 and the Bureau, under which control of education pro-  
9 grams is intended to be transferred to such tribe or tribes  
10 within a specific period of time negotiated under such  
11 agreement. The Secretary may approve applications for  
12 funding tribal divisions of education and development of  
13 tribal codes of education from funds appropriated pursu-  
14 ant to section 104(a) of such Act.

15           “(d) TECHNICAL ASSISTANCE AND TRAINING.—In  
16 the exercise of its authority under this section, a local  
17 school board may request technical assistance and training  
18 from the Secretary, and the Secretary shall, to the great-  
19 est extent possible, provide such services, and make appro-  
20 priate provisions in the budget of the Office for such serv-  
21 ices.

22           “(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT  
23 SERVICES.—

24                   “(1) IN GENERAL.—A financial plan under sub-  
25           section (b) for a school may include, at the discre-



## IV-125

1       tion of the local administrator and the school board  
2       of such school, a provision for a summer program of  
3       academic and support services for students of the  
4       school. Any such program may include activities re-  
5       lated to the prevention of alcohol and substance  
6       abuse. The Assistant Secretary of Indian Affairs  
7       shall provide for the utilization of any such school  
8       facility during any summer in which such utilization  
9       is requested.

10           (2) USE OF OTHER FUNDS.—Notwithstanding  
11       any other provision of law, funds authorized under  
12       the Act of April 16, 1934, and this Act may be used  
13       to augment the services provided in each summer  
14       program at the option, and under the control, of the  
15       tribe or Indian controlled school receiving such  
16       funds.

17           “(3) TECHNICAL ASSISTANCE AND PROGRAM  
18       COORDINATION.—The Assistant Secretary of Indian  
19       Affairs, acting through the Director of the Office,  
20       shall provide technical assistance and coordination  
21       for any program described in paragraph (1) and  
22       shall, to the extent possible, encourage the coordina-  
23       tion of such programs with any other summer pro-  
24       grams that might benefit Indian youth, regardless of



## IV-126

1 the funding source or administrative entity of any  
2 such program.

3 “(f) COOPERATIVE AGREEMENTS.—

4 “(1) IN GENERAL.—From funds allotted to a  
5 Bureau school under section 1127, the Secretary  
6 shall, if specifically requested by the tribal governing  
7 body (as defined in section 1141), implement any co-  
8 operative agreement entered into between the tribe,  
9 the Bureau school board, and the local public school  
10 district which meets the requirements of paragraph  
11 (2) and involves the school. The tribe, the Bureau  
12 school board, and the local public school district  
13 shall determine the terms of the agreement. Such  
14 agreement may encompass coordination of all or any  
15 part of the following:

16 “(A) Academic program and curriculum,  
17 unless the Bureau school is currently accredited  
18 by a State or regional accrediting entity and  
19 would not continue to be so accredited.

20 “(B) Support services, including procure-  
21 ment and facilities maintenance.

22 “(C) Transportation.

23 “(2) EQUAL BENEFIT AND BURDEN.—Each agree-  
24 ment entered into pursuant to the authority provided in  
25 paragraph (1) shall confer a benefit upon the Bureau



## IV-127

1 school commensurate with the burden assumed, though  
2 this requirement shall not be construed so as to require  
3 equal expenditures or an exchange of similar services.

4 “(g) PRODUCT OR RESULT OF STUDENT  
5 PROJECTS.—Notwithstanding any other provision of law,  
6 where there is agreement on action between the super-  
7 intendent and the school board of a Bureau funded school,  
8 the product or result of a project conducted in whole or  
9 in major part by a student may be given to that student  
10 upon the completion of such project.

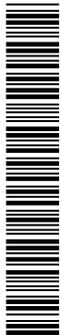
11 “(h) NOT CONSIDERED FEDERAL FUNDS FOR  
12 MATCHING REQUIREMENTS.—Notwithstanding any other  
13 provision of law, funds received by a Bureau funded school  
14 under this title shall not be considered Federal funds for  
15 the purposes of meeting a matching funds requirement for  
16 any Federal program.

17 **“SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDU-  
18 CATION.**

19 “(a) FACILITATION OF INDIAN CONTROL.—It shall  
20 be the policy of the Secretary and the Bureau, in carrying  
21 out the functions of the Bureau, to facilitate tribal control  
22 of Indian affairs in all matters relating to education.

23 “(b) CONSULTATION WITH TRIBES.—

24 “(1) IN GENERAL.—All actions under this Act  
25 shall be done with active consultation with tribes.



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1           “(2) REQUIREMENTS.—The consultation re-  
2           quired under paragraph (1) means a process involv-  
3           ing the open discussion and joint deliberation of all  
4           options with respect to potential issues or changes  
5           between the Bureau and all interested parties. Dur-  
6           ing such discussions and joint deliberations, inter-  
7           ested parties (including tribes and school officials)  
8           shall be given an opportunity to present issues in-  
9           cluding proposals regarding changes in current prac-  
10          tices or programs which will be considered for future  
11          action by the Bureau. All interested parties shall be  
12          given an opportunity to participate and discuss the  
13          options presented or to present alternatives, with the  
14          views and concerns of the interested parties given ef-  
15          fect unless the Secretary determines, from informa-  
16          tion available from or presented by the interested  
17          parties during 1 or more of the discussions and de-  
18          liberations, that there is a substantial reason for an-  
19          other course of action. The Secretary shall submit to  
20          any Member of Congress, within 18 days of the re-  
21          ceipt of a written request by such Member, a written  
22          explanation of any decision made by the Secretary  
23          which is not consistent with the views of the inter-  
24          ested parties.



## IV-129

1 **“SEC. 1132. INDIAN EDUCATION PERSONNEL.**

2 “(a) IN GENERAL.—

3 “(1) APPLICABILITY OF TITLE 5, U.S.C.—Chap-  
4 ter 51, subchapter III of chapter 53, and chapter 63  
5 of title 5, United States Code, relating to classifica-  
6 tion, pay and leave, respectively, and the sections of  
7 such title relating to the appointment, promotion,  
8 hours of work, and removal of civil service employ-  
9 ees, shall not apply to educators or to education po-  
10 sitions (as defined in subsection (p)).

11 “(b) REGULATIONS.—Not later than 60 days after  
12 the date of enactment of the Student Results Act of 1999,  
13 the Secretary shall prescribe regulations to carry out this  
14 section. Such regulations shall include—

15 “(1) the establishment of education positions;

16 “(2) the establishment of qualifications for edu-  
17 cators and education personnel;18 “(3) the fixing of basic compensation for edu-  
19 cators and education positions;

20 “(4) the appointment of educators;

21 “(5) the discharge of educators;

22 “(6) the entitlement of educators to compensa-  
23 tion;

24 “(7) the payment of compensation to educators;

25 “(8) the conditions of employment of educators;

26 “(9) the leave system for educators;



## IV-130

1           “(10) the annual leave and sick leave for edu-  
2           cators and

3           “(11) such matters as may be appropriate.

4           “(c) QUALIFICATIONS OF EDUCATORS.—

5           “(1) REQUIREMENTS.—In prescribing regula-  
6           tions to govern the qualifications of educators, the  
7           Secretary shall require—

8                   “(A)(i) that lists of qualified and inter-  
9                   viewed applicants for education positions be  
10                  maintained in each agency and area office of  
11                  the Bureau from among individuals who have  
12                  applied at the agency or area level for an edu-  
13                  cation position or who have applied at the na-  
14                  tional level and have indicated in such applica-  
15                  tion an interest in working in certain areas or  
16                  agencies; and

17                   “(ii) that a list of qualified and interviewed  
18                  applicants for education positions be main-  
19                  tained in the Office from among individuals  
20                  who have applied at the national level for an  
21                  education position and who have expressed in-  
22                  terest in working in an education position any-  
23                  where in the United States;

24                   “(B) that a local school board shall have  
25                  the authority to waive on a case-by-case basis,



## IV-131

1 any formal education or degree qualifications  
2 established by regulation pursuant to subsection  
3 (b)(2), in order for a tribal member to be hired  
4 in an education position to teach courses on  
5 tribal culture and language and that subject to  
6 subsection (e)(2), a determination by a school  
7 board that such a person be hired shall be insti-  
8 tuted supervisor; and

9 “(C) that it shall not be a prerequisite to  
10 the employment of an individual in an edu-  
11 cation position at the local level that such indi-  
12 vidual’s name appear on the national list main-  
13 tained pursuant to subparagraph (A)(ii) or that  
14 such individual has applied at the national level  
15 for an education position.

16 “(2) EXCEPTION FOR CERTAIN TEMPORARY EM-  
17 PLOYMENT.—The Secretary may authorize the tem-  
18 porary employment in an education position of an  
19 individual who has not met the certification stand-  
20 ards established pursuant to regulations, if the Sec-  
21 retary determines that failure to do so would result  
22 in that position remaining vacant.

23 “(d) HIRING OF EDUCATORS.—



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1           “(1) REQUIREMENTS.—In prescribing regula-  
2           tions to govern the appointment of educators, the  
3           Secretary shall require—

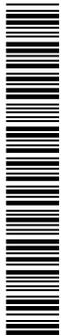
4                   “(A)(i) that educators employed in a Bu-  
5                   reau operated school (other than the supervisor  
6                   of the school) shall be hired by the supervisor  
7                   of the school. In cases where there are no quali-  
8                   fied applicants available, such supervisor may  
9                   consult the national list maintained pursuant to  
10                  subsection (c)(1)(A)(ii);

11                   “(ii) each school supervisor shall be  
12                   hired by the education line officer of the  
13                   agency office of the Bureau in which the  
14                   school is located;

15                   “(iii) educators employed in an agency  
16                   office of the Bureau shall be hired by the  
17                   superintendent for education of the agency  
18                   office; and

19                   “(iv) each education line officer and  
20                   educators employed in the Office of the Di-  
21                   rector of Indian Education Programs shall  
22                   be hired by the Director;

23                   “(B) that before an individual is employed  
24                   in an education position in a school by the su-  
25                   pervisor of a school (or with respect to the posi-



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1           tion of supervisor, by the appropriate agency  
 2           education line officer), the local school board  
 3           for the school shall be consulted. A determina-  
 4           tion by such school board that such individual  
 5           should or should not be so employed shall be in-  
 6           stituted by the supervisor (or with respect to  
 7           the position of supervisor, by the agency super-  
 8           intendent for education);

9           “(C) that before an individual may be em-  
 10          ployed in an education position at the agency  
 11          level, the appropriate agency school board shall  
 12          be consulted, and that a determination by such  
 13          school board that such individual should or  
 14          should not be employed shall be instituted by  
 15          the agency superintendent for education; and

16          “(D) that before an individual may be em-  
 17          ployed in an education position in the Office of  
 18          the Director (other than the position of Direc-  
 19          tor), the national school boards representing all  
 20          Bureau schools shall be consulted.

21          “(2) INFORMATION REGARDING APPLICATION  
 22          AT NATIONAL LEVEL.—Any individual who applies  
 23          at the local level for an education position shall state  
 24          on such individual’s application whether or not such  
 25          individual has applied at the national level for an



## IV-134

1 education position in the Bureau. If such individual  
2 is employed at the local level, such individual's name  
3 shall be immediately forwarded to the Secretary,  
4 who shall, as soon as practicable but in no event in  
5 more than 30 days, ascertain the accuracy of the  
6 statement made by such individual pursuant to the  
7 first sentence of this paragraph. Notwithstanding  
8 subsection (e), if the individual's statement is found  
9 to have been false, such individual, at the Sec-  
10 retary's discretion, may be disciplined or discharged.  
11 If the individual has applied at the national level for  
12 an education position in the Bureau, the appoint-  
13 ment of such individual at the local level shall be  
14 conditional for a period of 90 days, during which pe-  
15 riod the Secretary may appoint a more qualified in-  
16 dividual (as determined by the Secretary) from the  
17 list maintained at the national level pursuant to sub-  
18 section (c)(1)(A)(ii) to the position to which such in-  
19 dividual was appointed.

20 “(3) STATUTORY CONSTRUCTION.—Except as  
21 expressly provided, nothing in this section shall be  
22 construed as conferring upon local school boards au-  
23 thority over, or control of, educators at Bureau  
24 funded schools or the authority to issue management  
25 decisions.



## IV-135

1       “(e) DISCHARGE AND CONDITIONS OF EMPLOYMENT  
2 OF EDUCATORS.—

3           “(1) REGULATIONS.—In prescribing regulations  
4 to govern the discharge and conditions of employ-  
5 ment of educators, the Secretary shall require—

6           “(A) that procedures be established for the  
7 rapid and equitable resolution of grievances of  
8 educators;

9           “(B) that no educator may be discharged  
10 without notice of the reasons therefore and op-  
11 portunity for a hearing under procedures that  
12 comport with the requirements of due process;  
13 and

14           “(C) that educators employed in Bureau  
15 schools be notified 30 days prior to the end of  
16 the school year whether their employment con-  
17 tract will be renewed for the following year.

18           “(2) PROCEDURES FOR DISCHARGE.—The su-  
19 pervisor of a Bureau school may discharge (subject  
20 to procedures established under paragraph (1)(B))  
21 for cause (as determined under regulations pre-  
22 scribed by the Secretary) any educator employed in  
23 such school. Upon giving notice of proposed dis-  
24 charge to an educator, the supervisor involved shall  
25 immediately notify the local school board for the



## IV-136

1 school of such action. A determination by the local  
2 school board that such educator shall not be dis-  
3 charged shall be followed by the supervisor. The su-  
4 pervisor shall have the right to appeal such action  
5 to the education line officer of the appropriate agen-  
6 cy office of the Bureau. Upon such an appeal, the  
7 agency education line officer may, for good cause  
8 and in writing to the local school board, overturn the  
9 determination of the local school board with respect  
10 to the employment of such individual.

11 “(3) RECOMMENDATIONS OF SCHOOL BOARDS  
12 FOR DISCHARGE.—Each local school board for a Bu-  
13 reau school shall have the right—

14 “(A) to recommend to the supervisor of  
15 such school that an educator employed in the  
16 school be discharged; and

17 “(B) to recommend to the education line  
18 officer of the appropriate agency office of the  
19 Bureau and to the Director of the Office, that  
20 the supervisor of the school be discharged.

21 “(f) APPLICABILITY OF INDIAN PREFERENCE  
22 LAWS.—

23 “(1) IN GENERAL.—Notwithstanding any provi-  
24 sion of the Indian preference laws, such laws shall  
25 not apply in the case of any personnel action under



## IV-137

1 this section respecting an applicant or employee not  
2 entitled to Indian preference if each tribal organiza-  
3 tion concerned grants a written waiver of the appli-  
4 cation of such laws with respect to such personnel  
5 action and states that such waiver is necessary. This  
6 paragraph shall not relieve the Bureau's responsi-  
7 bility to issue timely and adequate announcements  
8 and advertisements concerning any such personnel  
9 action if such action is intended to fill a vacancy (no  
10 matter how such vacancy is created).

11 “(2) TRIBAL ORGANIZATION DEFINED.—For  
12 purposes of this subsection, the term ‘tribal organi-  
13 zation’ means—

14 “(A) the recognized governing body of any  
15 Indian tribe, band, nation, pueblo, or other or-  
16 ganized community, including a Native village  
17 (as defined in section 3(c) of the Alaska Native  
18 Claims Settlement Act); or

19 “(B) in connection with any personnel ac-  
20 tion referred to in this subsection, any local  
21 school board as defined in section 1146 which  
22 has been delegated by such governing body the  
23 authority to grant a waiver under this sub-  
24 section with respect to personnel action.



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1           “(3) INDIAN PREFERENCE LAW DEFINED.—The  
2 term ‘Indian preference laws’ means section 12 of  
3 the Act of June 18, 1934 or any other provision of  
4 law granting a preference to Indians in promotions  
5 and other personnel actions. Such term shall not in-  
6 clude section 7(b) of the Indian Self-Determination  
7 and Education Assistance Act.

8           “(g) COMPENSATION OR ANNUAL SALARY.—

9           “(1) IN GENERAL.—(A) Except as otherwise  
10 provided in this section, the Secretary shall fix the  
11 basic compensation for educators and education po-  
12 sitions at rates in effect under the General Schedule  
13 for individuals with comparable qualifications, and  
14 holding comparable positions, to whom chapter 51 of  
15 title 5, United States Code, is applicable or on the  
16 basis of the Federal Wage System schedule in effect  
17 for the locality, and for the comparable positions,  
18 the rates of compensation in effect for the senior ex-  
19 ecutive service.

20           “(B) The Secretary shall establish the rate of  
21 basic compensation, or annual salary rates, for the  
22 positions of teachers and counselors (including dor-  
23 mitory counselors and home-living counselors) at the  
24 rates of basic compensation applicable (on the date  
25 of enactment of the Student Results Act of 1999



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1 and thereafter) to comparable positions in the over-  
2 seas schools under the Defense Department Over-  
3 seas Teachers Pay Act. The Secretary shall allow  
4 the local school boards authority to implement only  
5 the aspects of the Defense Department Overseas  
6 Teacher pay provisions that are considered essential  
7 for recruitment and retention. Implementation of  
8 such provisions shall not be construed to require the  
9 implementation of the Act in its entirety.

10 “(C)(i) Beginning with the fiscal year following  
11 the date of enactment of the Student Results Act of  
12 1999, each school board may set the rate of com-  
13 pensation or annual salary rate for teachers and  
14 counselors (including academic counselors) who are  
15 new hires at the school and who have not worked at  
16 the school on the date of implementation of this pro-  
17 vision, at rates consistent with the rates paid for in-  
18 dividuals in the same positions, with the same ten-  
19 ure and training, in any other school within whose  
20 boundaries the Bureau school lies. In instances  
21 where the adoption of such rates cause a reduction  
22 in the payment of compensation from that which  
23 was in effect for the fiscal year following the date  
24 of enactment of the Student Results Act of 1999,  
25 the new rate may be applied to the compensation of



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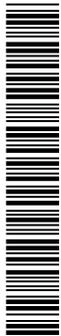
1 employees of the school who worked at the school on  
2 of the date of enactment of that Act by applying  
3 those rates to each contract renewal such that the  
4 reduction takes effect in three equal installments.  
5 Where adoption of such rates lead to an increase in  
6 the payment of compensation from that which was  
7 in effect for the fiscal year following the date of en-  
8 actment of the Student Results Act of 1999, the  
9 school board may make such rates applicable at the  
10 next contract renewal such that either—

11 “(I) the increase occurs in its entirety; or

12 “(II) the increase is applied in 3 equal in-  
13 stallments.

14 “(ii) The establishment of rates of basic com-  
15 pensation and annual salary rates under subpara-  
16 graphs (B) and (C) shall not preclude the use of  
17 regulations and procedures used by the Bureau prior  
18 to April 28, 1988, in making determinations regard-  
19 ing promotions and advancements through levels of  
20 pay that are based on the merit, education, experi-  
21 ence, or tenure of the educator.

22 “(D) The establishment of rates of basic com-  
23 pensation and annual salary rates under subpara-  
24 graphs (B) and (C) shall not affect the continued  
25 employment or compensation of an educator who



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1 was employed in an education position on October  
2 31, 1979, and who did not make an election under  
3 subsection (p) is in effect on January 1, 1990.

4 “(2) POSTDIFFERENTIAL RATES.—(A) The Sec-  
5 retary may pay a postdifferential rate not to exceed  
6 25 percent of the rate of basic compensation, on the  
7 basis of conditions of environment or work which  
8 warrant additional pay as a recruitment and reten-  
9 tion incentive.

10 “(B)(i) Upon the request of the supervisor and  
11 the local school board of a Bureau school, the Sec-  
12 retary shall grant the supervisor of the school au-  
13 thorization to provide 1 or more postdifferentials  
14 under subparagraph (A) unless the Secretary deter-  
15 mines for clear and convincing reasons (and advises  
16 the board in writing of those reasons) that certain  
17 of the requested post differentials should be dis-  
18 approved or decreased because there is no disparity  
19 of compensation for the involved employees or posi-  
20 tions in the Bureau school, as compared with the  
21 nearest public school, that is either—

22 “(I) at least 5 percent, or

23 “(II) less than 5 percent and affects the  
24 recruitment or retention of employees at the  
25 school.



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1           “(ii) A request under clause (i) shall be deemed  
2           granted at the end of the 60th day after the request  
3           is received in the Central Office of the Bureau un-  
4           less before that time the request is approved, ap-  
5           proved with modification, or disapproved by the Sec-  
6           retary.

7           “(iii) The Secretary or the supervisor of a Bu-  
8           reau school may discontinue or decrease a post dif-  
9           ferential authorized under this subparagraph at the  
10          beginning of a school year if—

11                 “(I) the local school board requests that  
12                 such differential be discontinued or decreased;  
13                 or

14                 “(II) the Secretary or the supervisor deter-  
15                 mines for clear and convincing reasons (and ad-  
16                 vises the board in writing of those reasons) that  
17                 there is no disparity of compensation that  
18                 would affect the recruitment or retention of em-  
19                 ployees at the school after the differential is  
20                 discontinued or decreased.

21           “(iv) On or before February 1 of each year, the  
22           Secretary shall submit to Congress a report describ-  
23           ing the requests and grants of authority under this  
24           subparagraph during the previous year and listing



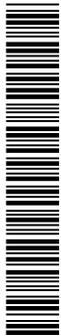
## IV-143

1 the positions contracted under those grants of au-  
2 thority.

3 “(h) LIQUIDATION OF REMAINING LEAVE  
4 UPON TERMINATION.—Upon termination of employ-  
5 ment with the Bureau, any annual leave remaining  
6 to the credit of an individual within the purview of  
7 this section shall be liquidated in accordance with  
8 sections 5551(a) and 6306 of title 5, United States  
9 Code, except that leave earned or accrued under reg-  
10 ulations prescribed pursuant to subsection (b)(10) of  
11 this section shall not be so liquidated.

12 “(i) TRANSFER OF REMAINING SICK LEAVE UPON  
13 TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the  
14 case of any educator who is transferred, promoted, or re-  
15 appointed, without break in service, to a position in the  
16 Federal Government under a different leave system, any  
17 remaining leave to the credit of such person earned or  
18 credited under the regulations prescribed pursuant to sub-  
19 section (b)(10) shall be transferred to such person’s credit  
20 in the employing agency on an adjusted basis in accord-  
21 ance with regulations which shall be prescribed by the Of-  
22 fice of Personnel Management.

23 “(j) INELIGIBILITY FOR EMPLOYMENT OF VOL-  
24 UNTARY TERMINATED EDUCATORS.—An educator who  
25 voluntarily terminates employment with the Bureau before



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1 the expiration of the existing employment contract be-  
2 tween such educator and the Bureau shall not be eligible  
3 to be employed in another education position in the Bu-  
4 reau during the remainder of the term of such contract.

5 “(k) DUAL COMPENSATION.—In the case of any edu-  
6 cator employed in an education position described in sub-  
7 section (l)(1)(A) who—

8 “(1) is employed at the close of a school year,

9 “(2) agrees in writing to serve in such position  
10 for the next school year, and

11 “(3) is employed in another position during the  
12 recess period immediately preceding such next school  
13 year, or during such recess period receives additional  
14 compensation referred to in section 5533 of title 5,  
15 United States Code, relating to dual compensation,  
16 shall not apply to such educator by reason of any such  
17 employment during a recess period for any receipt of addi-  
18 tional compensation.

19 “(l) VOLUNTARY SERVICES.—Notwithstanding sec-  
20 tion 1342 of title 31, United States Code, the Secretary  
21 may, subject to the approval of the local school board con-  
22 cerned, accept voluntary services on behalf of Bureau  
23 schools. Nothing in this title shall be construed to require  
24 Federal employees to work without compensation or to  
25 allow the use of volunteer services to displace or replace



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1 Federal employees. An individual providing volunteer serv-  
2 ices under this section is a Federal employee only for pur-  
3 poses of chapter 81 of title 5, United States Code, and  
4 chapter 171 of title 28, United States Code.

5 “(m) PRORATION OF PAY.—

6 “(1) ELECTION OF EMPLOYEE.—Notwith-  
7 standing any other provision of law, including laws  
8 relating to dual compensation, the Secretary, at the  
9 election of the employee, shall prorate the salary of  
10 an employee employed in an education position for  
11 the academic school year over the entire 12-month  
12 period. Each educator employed for the academic  
13 school year shall annually elect to be paid on a 12-  
14 month basis or for those months while school is in  
15 session. No educator shall suffer a loss of pay or  
16 benefits, including benefits under unemployment or  
17 other Federal or federally assisted programs, be-  
18 cause of such election.

19 “(2) CHANGE OF ELECTION.—During the  
20 course of such year the employee may change elec-  
21 tion once.

22 “(3) LUMP SUM PAYMENT.—That portion of  
23 the employee’s pay which would be paid between  
24 academic school years may be paid in lump sum at  
25 the election of the employee.



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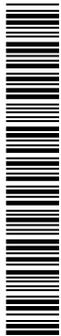
1           “(4) DEFINITIONS.—For purposes of this  
2 subsection, the terms ‘educator’ and ‘education posi-  
3 tion’ have the meanings contained in paragraphs (1)  
4 and (2) of subsection (o). This subsection applies to  
5 those individuals employed under the provisions of  
6 section 1132 of this title or title 5, United States  
7 Code.

8           “(n) EXTRACURRICULAR ACTIVITIES.—

9           “(1) STIPEND.—Notwithstanding any other  
10 provision of law, the Secretary may provide, for each  
11 Bureau area, a stipend in lieu of overtime premium  
12 pay or compensatory time off. Any employee of the  
13 Bureau who performs additional activities to provide  
14 services to students or otherwise support the school’s  
15 academic and social programs may elect to be com-  
16 pensated for all such work on the basis of the sti-  
17 pend. Such stipend shall be paid as a supplement to  
18 the employee’s base pay.

19           “(2) ELECTION NOT TO RECEIVE STIPEND.—If  
20 an employee elects not to be compensated through  
21 the stipend established by this subsection, the appro-  
22 priate provisions of title 5, United States Code, shall  
23 apply.

24           “(3) APPLICABILITY OF SUBSECTION.—This  
25 subsection applies to all Bureau employees, whether



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1 employed under section 1132 of this title or title 5,  
2 United States Code.

3 “(o) DEFINITIONS.—For the purpose of this  
4 section—

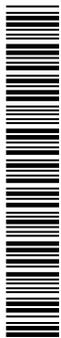
5 “(1) EDUCATION POSITION.—The term ‘edu-  
6 cation position’ means a position in the Bureau the  
7 duties and responsibilities of which—

8 “(A) are performed on a school-year basis  
9 principally in a Bureau school and involve—

10 “(i) classroom or other instruction or  
11 the supervision or direction of classroom or  
12 other instruction;

13 “(ii) any activity (other than teach-  
14 ing) which requires academic credits in  
15 educational theory and practice equal to  
16 the academic credits in educational theory  
17 and practice required for a bachelor’s de-  
18 gree in education from an accredited insti-  
19 tution of higher education;

20 “(iii) any activity in or related to the  
21 field of education notwithstanding that  
22 academic credits in educational theory and  
23 practice are not a formal requirement for  
24 the conduct of such activity; or





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1 fice. The information provided shall include information  
2 regarding—

3 “(1) student enrollment;

4 “(2) curriculum;

5 “(3) staffing;

6 “(4) facilities;

7 “(5) community demographics;

8 “(6) student assessment information;

9 “(7) information on the administrative and pro-  
10 gram costs attributable to each Bureau program, di-  
11 vided into discreet elements;

12 “(8) relevant reports;

13 “(9) personnel records;

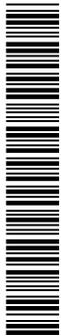
14 “(10) finance and payroll; and

15 “(11) such other items as the Secretary deems  
16 appropriate.

17 “(b) IMPLEMENTATION OF SYSTEM.—Not later than  
18 July 1, 2003, the Secretary shall complete implementation  
19 of such a system at each field office and Bureau funded  
20 school.

21 **“SEC. 1134. UNIFORM EDUCATION PROCEDURES AND PRAC-  
22 TICES.**

23 “The Secretary shall cause the various divisions of  
24 the Bureau to formulate uniform procedures and practices  
25 with respect to such concerns of those divisions as relate



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1 to education, and shall report such practices and proce-  
2 dures to the Congress.

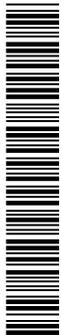
3 **“SEC. 1135. RECRUITMENT OF INDIAN EDUCATORS.**

4 “The Secretary shall institute a policy for the recruit-  
5 ment of qualified Indian educators and a detailed plan to  
6 promote employees from within the Bureau. Such plan  
7 shall include opportunities for acquiring work experience  
8 prior to actual work assignment.

9 **“SEC. 1136. BIENNIAL REPORT; AUDITS.**

10 “(a) BIENNIAL REPORTS.—The Secretary shall sub-  
11 mit to each appropriate committee of Congress, all Bureau  
12 funded schools, and the tribal governing bodies of such  
13 schools, a detailed biennial report on the state of education  
14 within the Bureau and any problems encountered in In-  
15 dian education during the 2-year period covered by the  
16 report. Such report shall contain suggestions for the im-  
17 provement of the Bureau educational system and for in-  
18 creasing tribal or local Indian control of such system. Such  
19 report shall also include the current status of tribally con-  
20 trolled community colleges. The annual budget submission  
21 for the Bureau’s education programs shall include—

22 “(1) information on the funds provided to pre-  
23 viously private schools under section 208 of the In-  
24 dian Self-Determination and Education Assistance



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1 Act, and recommendations with respect to the future  
2 use of such funds;

3 “(2) the needs and costs of operations and  
4 maintenance of tribally controlled community col-  
5 leges eligible for assistance under the Tribally Con-  
6 trolled Community College Assistance Act of 1978  
7 and recommendations with respect to meeting such  
8 needs and costs; and

9 “(3) the plans required by sections 1121 (g),  
10 1122(e), and 1125(b).

11 “(b) FINANCIAL AND COMPLIANCE AUDITS.—The  
12 Inspector General of the Department of the Interior shall  
13 establish a system to ensure that financial and compliance  
14 audits are conducted of each Bureau operated school at  
15 least once in every 3 years. Audits of Bureau schools shall  
16 be based upon the extent to which such school has com-  
17 plied with its local financial plan under section 1130.

18 **“SEC. 1137. RIGHTS OF INDIAN STUDENTS.**

19 “The Secretary shall prescribe such rules and regula-  
20 tions as are necessary to ensure the constitutional and civil  
21 rights of Indian students attending Bureau funded  
22 schools, including such students’ right to privacy under  
23 the laws of the United States, such students’ right to free-  
24 dom of religion and expression, and such students’ right



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1 to due process in connection with disciplinary actions, sus-  
2 pensions, and expulsions.

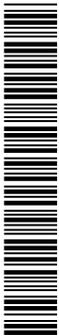
3 **“SEC. 1138. REGULATIONS.**

4 “(a) IN GENERAL.—The Secretary is authorized to  
5 issue only such regulations as are necessary to ensure  
6 compliance with the specific provision of this Act. The Sec-  
7 retary shall publish proposed regulations in the Federal  
8 Register, shall provide a period of not less than 90 days  
9 for public comment thereon, and shall place in parentheses  
10 after each regulatory section the citation to any statutory  
11 provision providing authority to promulgate such regu-  
12 latory provision.

13 “(b) MISCELLANEOUS.—

14 “(1) CONSTRUCTION.—The provisions of this  
15 Act shall supersede any conflicting provisions of law  
16 (including any conflicting regulations) in effect on  
17 the day before the date of enactment of this Act and  
18 the Secretary is authorized to repeal any regulation  
19 inconsistent with the provisions of this Act.

20 “(2) GENERAL APPLICABILITY OF CERTAIN  
21 RULES; LEGAL AUTHORITY TO BE STATED.—Regula-  
22 tions required to be adopted under sections 2006  
23 through 2018 and any revisions of the standards de-  
24 veloped under section 2001 or 2002 shall be deemed  
25 rules of general applicability prescribed for the ad-



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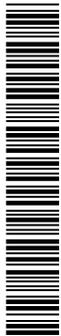
1 ministrations of an applicable program for the pur-  
2 poses of section 437 of the Elementary and Sec-  
3 ondary Education Amendments of 1967 and shall be  
4 promulgated, submitted for congressional review,  
5 and take effect in accordance with the provisions of  
6 such section. Such regulations shall contain, imme-  
7 diately following each substantive provision of such  
8 regulations, citations to the particular section or sec-  
9 tions of statutory law or other legal authority upon  
10 which provision is based.

11 **“SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.**

12 “(a) The Secretary shall provide grants to tribes,  
13 tribal organizations, and consortia of tribes and tribal or-  
14 ganizations to fund early childhood development programs  
15 that are operated by such tribes, organizations, or con-  
16 sortia.

17 “(b)(1) The total amount of the grants provided  
18 under subsection (a) with respect to each tribe, tribal or-  
19 ganization, or consortium of tribes or tribal organizations  
20 for each fiscal year shall be equal to the amount which  
21 bears the same relationship to the total amount appro-  
22 priated under the authority of subsection (g) for such fis-  
23 cal year (less amounts provided under subsection (f)) as—

24 “(A) the total number of children under 6 years  
25 of age who are members of—



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1 “(i) such tribe;

2 “(ii) the tribe that authorized such tribal  
3 organization; or

4 “(iii) any tribe that—  
5 “(I) is a member of such consortium;  
6 or

7 “(II) authorizes any tribal organiza-  
8 tion that is a member of such consortium;  
9 bears to

10 “(B) the total number of all children under 6  
11 years of age who are members of any tribe that—

12 “(i) is eligible to receive funds under sub-  
13 section (a);

14 “(ii) is a member of a consortium that is  
15 eligible to receive such funds; or

16 “(iii) authorizes a tribal organization that  
17 is eligible to receive such funds.

18 “(2) No grant may be provided under subsection  
19 (a)—

20 “(A) to any tribe that has less than 500 mem-  
21 bers;

22 “(B) to any tribal organization which is  
23 authorized—

24 “(i) by only 1 tribe that has less than 500  
25 members; or



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1                   “(ii) by 1 or more tribes that have a com-  
2                   bined total membership of less than 500 mem-  
3                   bers; or

4                   “(C) to any consortium composed of tribes, or  
5                   tribal organizations authorized by tribes, that have  
6                   a combined total tribal membership of less than 500  
7                   members.

8                   “(c)(1) A grant may be provided under subsection (a)  
9                   to a tribe, tribal organization, or consortia of tribes and  
10                  tribal organizations only if the tribe, organization, or con-  
11                  sortia submits to the Secretary an application for the  
12                  grant at such time and in such form as the Secretary shall  
13                  prescribe.

14                  “(2) Applications submitted under paragraph (1)  
15                  shall set forth the early childhood development program  
16                  that the applicant desires to operate.

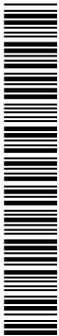
17                  “(d) The early childhood development programs that  
18                  are funded by grants provided under subsection (a)—

19                         “(1) shall coordinate existing programs and  
20                         may provide services that meet identified needs of  
21                         parents and children under 6 years of age which are  
22                         not being met by existing programs, including—

23                                 “(A) prenatal care;

24                                 “(B) nutrition education;

25                                 “(C) health education and screening;



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1 “(D) family literacy services;

2 “(E) educational testing; and

3 “(F) other educational services;

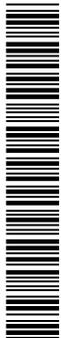
4 “(2) may include instruction in the language,  
5 art, and culture of the tribe; and

6 “(3) shall provide for periodic assessment of the  
7 program.

8 “(e) Family literacy programs operated under this  
9 section or other similar programs operated by the Bureau  
10 shall coordinate with family literacy programs for Indian  
11 children under part B of title I of the Elementary and  
12 Secondary Education Act of 1965 in order to avoid dupli-  
13 cation and to encourage the dissemination of information  
14 on quality family literacy programs serving Indians.

15 “(f) The Secretary shall, out of funds appropriated  
16 under subsection (g), include in the grants provided under  
17 subsection (a) amounts for administrative costs incurred  
18 by the tribe, tribal organization, or consortium of tribes  
19 in establishing and maintaining the early childhood devel-  
20 opment program.

21 “(g) For the purpose of carrying out the provisions  
22 of this section, there are authorized to be appropriated  
23 \$10,000,000 for fiscal year 2000 and such sums as may  
24 be necessary for each of the fiscal years 2001, 2002, 2003,  
25 and 2004.



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1 **“SEC. 1140. TRIBAL DEPARTMENTS OR DIVISIONS OF EDU-**  
2 **CATION.**

3 “(a) IN GENERAL.—Subject to the availability of ap-  
4 propriations, the Secretary shall provide grants and tech-  
5 nical assistance to tribes for the development and oper-  
6 ation of tribal departments of education for the purpose  
7 of planning and coordinating all educational programs of  
8 the tribe.

9 “(b) GRANTS.—Grants provided under this section  
10 shall—

11 “(1) be based on applications from the gov-  
12 erning body of the tribe;

13 “(2) reflect factors such as geographic and pop-  
14 ulation diversity;

15 “(3) facilitate tribal control in all matters relat-  
16 ing to the education of Indian children on Indian  
17 reservations (and on former Indian reservations in  
18 Oklahoma);

19 “(4) provide for the development of coordinated  
20 educational programs on Indian reservations (and on  
21 former Indian reservations in Oklahoma) (including  
22 all preschool, elementary, secondary, and higher or  
23 vocational educational programs funded by tribal,  
24 Federal, or other sources) by encouraging tribal ad-  
25 ministrative support of all Bureau funded edu-  
26 cational programs as well as encouraging tribal co-



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1 operation and coordination with all educational pro-  
2 grams receiving financial support from State agen-  
3 cies, other Federal agencies, or private entities;

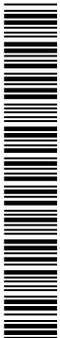
4 “(5) provide for the development and enforce-  
5 ment of tribal educational codes, including tribal  
6 educational policies and tribal standards applicable  
7 to curriculum, personnel, students, facilities, and  
8 support programs; and

9 “(6) otherwise comply with regulations for  
10 grants under section 103(a) of the Indian Self-De-  
11 termination and Educational Assistance Act that are  
12 in effect on the date that application for such grants  
13 are made.

14 “(c) PRIORITIES.—

15 “(1) In making grants under this section, the  
16 Secretary shall give priority to any application  
17 that—

18 “(A) includes assurances from the majority  
19 of Bureau funded schools located within the  
20 boundaries of the reservation of the applicant  
21 that the tribal department of education to be  
22 funded under this section will provide coordi-  
23 nating services and technical assistance to all of  
24 such schools, including the submission to each  
25 applicable agency of a unified application for



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1 funding for all of such schools which provides  
2 that—

3 “(i) no administrative costs other  
4 than those attributable to the individual  
5 programs of such schools will be associated  
6 with the unified application; and

7 “(ii) the distribution of all funds re-  
8 ceived under the unified application will be  
9 equal to the amount of funds provided by  
10 the applicable agency to which each of  
11 such schools is entitled under law;

12 “(B) includes assurances from the tribal  
13 governing body that the tribal department of  
14 education funded under this section will admin-  
15 ister all contracts or grants (except those cov-  
16 ered by the other provisions of this title and the  
17 Tribally Controlled Community College Assist-  
18 ance Act of 1978) for education programs ad-  
19 ministered by the tribe and will coordinate all  
20 of the programs to the greatest extent possible;

21 “(C) includes assurances for the moni-  
22 toring and auditing by or through the tribal de-  
23 partment of education of all education pro-  
24 grams for which funds are provided by contract



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1 or grant to ensure that the programs meet the  
2 requirements of law; and

3 “(D) provides a plan and schedule for—

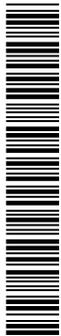
4 “(i) the assumption over the term of  
5 the grant by the tribal department of edu-  
6 cation of all assets and functions of the  
7 Bureau agency office associated with the  
8 tribe, insofar as those responsibilities re-  
9 late to education; and

10 “(ii) the termination by the Bureau of  
11 such operations and office at the time of  
12 such assumption;

13 except that when mutually agreeable between  
14 the tribal governing body and the Assistant  
15 Secretary, the period in which such assumption  
16 is to occur may be modified, reduced, or ex-  
17 tended after the initial year of the grant.

18 “(2) Subject to the availability of appropriated  
19 funds, grants provided under this section shall be  
20 provided for a period of 3 years and the grant may,  
21 if performance by the grantee is satisfactory to the  
22 Secretary, be renewed for additional 3-year terms.

23 “(d) TERMS, CONDITIONS, OR REQUIREMENTS.—The  
24 Secretary shall not impose any terms, conditions, or re-



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1 requirements on the provision of grants under this section  
2 that are not specified in this section.

3 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the  
4 purpose of carrying out the provisions of this section,  
5 there are authorized to be appropriated \$2,000,000 for fis-  
6 cal year 2000 and such sums as may be necessary for each  
7 of the fiscal years 20001, 2002, 2003, and 2004.

8 **“SEC. 1141. DEFINITIONS.**

9 “For the purposes of this part, unless otherwise spec-  
10 ified:

11 “(1) AGENCY SCHOOL BOARD.—The term  
12 ‘agency school board’ means a body, the members of  
13 which are appointed by all of the school boards of  
14 the schools located within an agency, including  
15 schools operated under contract or grant, and the  
16 number of such members shall be determined by the  
17 Secretary in consultation with the affected tribes, ex-  
18 cept that, in agencies serving a single school, the  
19 school board of such school shall fulfill these duties,  
20 and in agencies having schools or a school operated  
21 under contract or grant, one such member at least  
22 shall be from such a school.

23 “(2) BUREAU.—The term ‘Bureau’ means the  
24 Bureau of Indian Affairs of the Department of the  
25 Interior.



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1           “(3) BUREAU FUNDED SCHOOL.—The term  
2           ‘Bureau funded school’ means—

3                   “(A) a Bureau school;

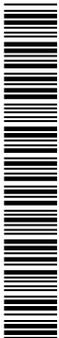
4                   “(B) a contract or grant school; or

5                   “(C) a school for which assistance is pro-  
6           vided under the Tribally Controlled Schools Act  
7           of 1988.

8           “(4) BUREAU SCHOOL.—The term ‘Bureau  
9           school’ means a Bureau operated elementary or sec-  
10          ondary day or boarding school or a Bureau operated  
11          dormitory for students attending a school other than  
12          a Bureau school.

13          “(5) CONTRACT OR GRANT SCHOOL.—The term  
14          ‘contract or grant school’ means an elementary or  
15          secondary school or dormitory which receives finan-  
16          cial assistance for its operation under a contract,  
17          grant or agreement with the Bureau under section  
18          102, 103(a), or 208 of the Indian Self-Determina-  
19          tion and Education Assistance Act, or under the  
20          Tribally Controlled Schools Act of 1988.

21          “(6) EDUCATION LINE OFFICER.—The term  
22          ‘education line officer’ means education personnel  
23          under the supervision of the Director, whether lo-  
24          cated in the central, area, or agency offices.



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1           “(7) FINANCIAL PLAN.—The term ‘financial  
2           plan’ means a plan of services provided by each Bu-  
3           reau school.

4           “(8) INDIAN ORGANIZATION.—the term ‘Indian  
5           organization’ means any group, association, partner-  
6           ship, corporation, or other legal entity owned or con-  
7           trolled by a federally recognized Indian tribe or  
8           tribes, or a majority of whose members are members  
9           of federally recognized tribes.

10           “(9) LOCAL EDUCATIONAL AGENCY.—The term  
11           ‘local educational agency’ means a board of edu-  
12           cation or other legally constituted local school au-  
13           thority having administrative control and direction  
14           of free public education in a county, township, inde-  
15           pendent, or other school district located within a  
16           State, and includes any State agency which directly  
17           operates and maintains facilities for providing free  
18           public education.

19           “(10) LOCAL SCHOOL BOARD.—The term ‘local  
20           school board’, when used with respect to a Bureau  
21           school, means a body chosen in accordance with the  
22           laws of the tribe to be served or, in the absence of  
23           such laws, elected by the parents of the Indian chil-  
24           dren attending the school, except that in schools  
25           serving a substantial number of students from dif-



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1       ferent tribes, the members shall be appointed by the  
2       governing bodies of the tribes affected, and the num-  
3       ber of such members shall be determined by the Sec-  
4       retary in consultation with the affected tribes.

5           “(11) OFFICE.—The term ‘Office’ means the  
6       Office of Indian Education Programs within the Bu-  
7       reau.

8           “(12) SECRETARY.—The term ‘Secretary’  
9       means the Secretary of the Interior.

10          “(13) SUPERVISOR.—The term ‘supervisor’  
11       means the individual in the position of ultimate au-  
12       thority at a Bureau school.

13          “(14) TRIBAL GOVERNING BODY.—The term  
14       ‘tribal governing body’ means, with respect to any  
15       school, the tribal governing body, or tribal governing  
16       bodies, that represent at least 90 percent of the stu-  
17       dents served by such school.

18          “(15) TRIBE.—The term ‘tribe’ means any In-  
19       dian tribe, band, nation, or other organized group or  
20       community, including any Alaska Native village or  
21       regional or village corporation as defined in or estab-  
22       lished pursuant to the Alaska Native Claims Settle-  
23       ment Act, which is recognized as eligible for the spe-  
24       cial programs and services provided by the United



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1 States to Indians because of their status as Indi-  
2 ans.”.

3 **Subtitle C—Tribally Controlled**  
4 **Schools Act of 1988**

5 **SEC. 420. TRIBALLY CONTROLLED SCHOOLS.**

6 Sections 5202 through 5212 of Public Law 100-297  
7 (25 U.S.C. 2501 et seq.) are amended to read as follows:

8 **“SEC. 5202. FINDINGS.**

9 “Congress, after careful review of the Federal Gov-  
10 ernment’s historical and special legal relationship with,  
11 and resulting responsibilities to, Indians, finds that—

12 “(1) the Indian Self-Determination and Edu-  
13 cation Assistance Act, which was a product of the le-  
14 gitimate aspirations and a recognition of the inher-  
15 ent authority of Indian nations, was and is a crucial  
16 positive step towards tribal and community control;

17 “(2) the Bureau of Indian Affairs’ administra-  
18 tion and domination of the contracting process  
19 under such Act has not provided the full opportunity  
20 to develop leadership skills crucial to the realization  
21 of self-government and has denied Indians an effec-  
22 tive voice in the planning and implementation of  
23 programs for the benefit of Indians which are re-  
24 sponsive to the true needs of Indian communities;



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1           “(3) Indians will never surrender their desire to  
2           control their relationships both among themselves  
3           and with non-Indian governments, organizations,  
4           and persons;

5           “(4) true self-determination in any society of  
6           people is dependent upon an educational process  
7           which will ensure the development of qualified people  
8           to fulfill meaningful leadership roles;

9           “(5) the Federal administration of education  
10          for Indian children has not effected the desired level  
11          of educational achievement or created the diverse op-  
12          portunities and personal satisfaction that education  
13          can and should provide;

14          “(6) true local control requires the least pos-  
15          sible Federal interference; and

16          “(7) the time has come to enhance the concepts  
17          made manifest in the Indian Self-Determination and  
18          Education Assistance Act.

19   **“SEC. 5203. DECLARATION OF POLICY.**

20          “(a) **RECOGNITION.**—Congress recognizes the obliga-  
21          tion of the United States to respond to the strong expres-  
22          sion of the Indian people for self-determination by assur-  
23          ing maximum Indian participation in the direction of edu-  
24          cational services so as to render such services more re-  
25          sponsive to the needs and desires of those communities.



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1           “(b) COMMITMENT.—Congress declares its commit-  
2 ment to the maintenance of the Federal Government’s  
3 unique and continuing trust relationship with and respon-  
4 sibility to the Indian people through the establishment of  
5 a meaningful Indian self-determination policy for edu-  
6 cation which will deter further perpetuation of Federal bu-  
7 reaucratic domination of programs.

8           “(c) NATIONAL GOAL.—Congress declares that a  
9 major national goal of the United States is to provide the  
10 resources, processes, and structure which will enable tribes  
11 and local communities to effect the quantity and quality  
12 of educational services and opportunities which will permit  
13 Indian children to compete and excel in the life areas of  
14 their choice and to achieve the measure of self-determina-  
15 tion essential to their social and economic well-being.

16           “(d) EDUCATIONAL NEEDS.—Congress affirms the  
17 reality of the special and unique educational needs of In-  
18 dian peoples, including the need for programs to meet the  
19 linguistic and cultural aspirations of Indian tribes and  
20 communities. These may best be met through a grant  
21 process.

22           “(e) FEDERAL RELATIONS.—Congress declares its  
23 commitment to these policies and its support, to the full  
24 extent of its responsibility, for Federal relations with the  
25 Indian Nations.



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1 “(f) TERMINATION.—Congress hereby repudiates and  
2 rejects House Resolution 108 of the 83rd Congress and  
3 any policy of unilateral termination of Federal relations  
4 with any Indian Nation.

5 **“SEC. 5204. GRANTS AUTHORIZED.**

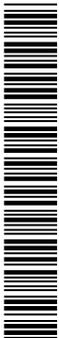
6 “(a) IN GENERAL.—

7 “(1) ELIGIBILITY.—The Secretary shall provide  
8 grants to Indian tribes, and tribal organizations  
9 that—

10 “(A) operate contract schools under title  
11 XI of the Education Amendments of 1978 and  
12 notify the Secretary of their election to operate  
13 the schools with assistance under this part  
14 rather than continuing as contract school;

15 “(B) operate other tribally controlled  
16 schools eligible for assistance under this part  
17 and submit applications (which are approved by  
18 their tribal governing bodies) to the Secretary  
19 for such grants; or

20 “(C) elect to assume operation of Bureau  
21 funded schools with the assistance under this  
22 part and submit applications (which are ap-  
23 proved by their tribal governing bodies) to the  
24 Secretary for such grants.



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1           “(2) DEPOSIT OF FUNDS.—Grants provided  
2           under this part shall be deposited into the general  
3           operating fund of the tribally controlled school with  
4           respect to which the grant is made.

5           “(3) USE OF FUNDS.—(A) Except as otherwise  
6           provided in this paragraph, grants provided under  
7           this part shall be used to defray, at the discretion  
8           of the school board of the tribally controlled school  
9           with respect to which the grant is provided, any ex-  
10          penditures for education related activities for which  
11          any funds that compose the grant may be used  
12          under the laws described in section 5205(a), includ-  
13          ing, but not limited to, expenditures for—

14                 “(i) school operations, academic, edu-  
15                 cational, residential, guidance and counseling,  
16                 and administrative purposes; and

17                 “(ii) support services for the school, includ-  
18                 ing transportation.

19           “(B) Grants provided under this part may, at  
20           the discretion of the school board of the tribally con-  
21           trolled school with respect to which such grant is  
22           provided, be used to defray operations and mainte-  
23           nance expenditures for the school if any funds for  
24           the operation and maintenance of the school are al-



## IV-170

1 located to the school under the provisions of any of  
2 the laws described in section 5205(a).

3 “(b) LIMITATIONS.—

4 “(1) Not more than 1 grant may be provided  
5 under this part with respect to any Indian tribe or  
6 tribal organization for any fiscal year.

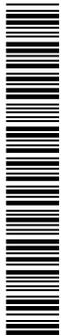
7 “(2) Funds provided under any grant made  
8 under this part may not be used in connection with  
9 religious worship or sectarian instruction.

10 “(3) Funds provided under any grant under  
11 this part may not be expended for administrative  
12 costs (as defined in section 1128(h)(1) of the Edu-  
13 cation Amendments of 1978) in excess of the  
14 amount generated for such costs under section 1128  
15 of such Act.

16 “(c) LIMITATION ON TRANSFER OF FUNDS AMONG  
17 SCHOOLSITES.—

18 “(1) IN GENERAL.—In the case of a grantee  
19 that operates schools at more than one schoolsite,  
20 the grantee may expend not more than the lesser  
21 of—

22 “(A) 10 percent of the funds allocated for  
23 such schoolsite under section 1128 of the Edu-  
24 cation Amendments of 1978; or



## IV-171

1                   “(B) \$400,000 of such funds, at any other  
2                   schoolsite.

3                   “(2) DEFINITION OF SCHOOLSITE.—For pur-  
4                   poses of this subsection, the term ‘schoolsite’ means  
5                   the physical location and the facilities of an elemen-  
6                   tary or secondary educational or residential program  
7                   operated by, or under contract or grant with, the  
8                   Bureau for which a discreet student count is identi-  
9                   fied under the funding formula established under  
10                  section 1128 of the Education Amendments of 1978.

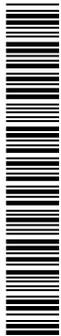
11                  “(d) NO REQUIREMENT TO ACCEPT GRANTS.—  
12                  Nothing in this part may be construed—

13                         “(1) to require a tribe or tribal organization to  
14                         apply for or accept; or

15                         “(2) to allow any person to coerce any tribe or  
16                         tribal organization to apply for, or accept

17 a grant under this part to plan, conduct, and administer  
18 all of, or any portion of, any Bureau program. Such appli-  
19 cations and the timing of such applications shall be strictly  
20 voluntary. Nothing in this part may be construed as allow-  
21 ing or requiring any grant with any entity other than the  
22 entity to which the grant is provided.

23                  “(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—  
24                  Grants provided under this part shall not terminate, mod-



## IV-172

1 ify, suspend, or reduce the responsibility of the Federal  
2 Government to provide a program.

3 “(f) RETROCESSION.—

4 “(1) IN GENERAL.— Whenever a tribal gov-  
5 erning body requests retrocession of any program for  
6 which assistance is provided under this part, such  
7 retrocession shall become effective upon a date speci-  
8 fied by the Secretary that is not later than 120 days  
9 after the date on which the tribal governing body re-  
10 quests the retrocession. A later date as may be spec-  
11 ified if mutually agreed upon by the Secretary and  
12 the tribal governing body. If such a program is  
13 retroceded, the Secretary shall provide to any Indian  
14 tribe served by such program at least the same  
15 quantity and quality of services that would have  
16 been provided under such program at the level of  
17 funding provided under this part prior to the ret-  
18 rocession.

19 “(2) STATUS AFTER RETROCESSION.—The tribe  
20 requesting retrocession shall specify whether the ret-  
21 rocession is to status as a Bureau operated school  
22 or as a school operated under contract under title XI  
23 of the Education Amendments of 1978.

24 “(3) TRANSFER OF EQUIPMENT AND MATE-  
25 RIALS.—Except as otherwise determined by the Sec-



## IV-173

1       retary, the tribe or tribal organization operating the  
2       program to be retroceded must transfer to the Sec-  
3       retary (or to the tribe or tribal organization which  
4       will operate the program as a contract school) the  
5       existing equipment and materials which were  
6       acquired—

7               “(A) with assistance under this part; or

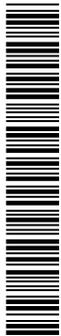
8               “(B) upon assumption of operation of the  
9               program under this part if the school was a Bu-  
10              reau funded school under title XI of the Edu-  
11              cation Amendments of 1978 before receiving as-  
12              sistance under this part.

13       “(g) PROHIBITION OF TERMINATION FOR ADMINIS-  
14       TRATIVE CONVENIENCE.—Grants provided under this  
15       part may not be terminated, modified, suspended, or re-  
16       duced solely for the convenience of the administering agen-  
17       cy.

18       **“SEC. 5205. COMPOSITION OF GRANTS.**

19       “(a) IN GENERAL.—The grant provided under this  
20       part to an Indian tribe or tribal organization for any fiscal  
21       year shall consist of—

22               “(1) the total amount of funds allocated for  
23               such fiscal year under sections 1127 and 1128 of the  
24               Education Amendments of 1978 with respect to the  
25               tribally controlled schools eligible for assistance



## IV-174

1 under this part which are operated by such Indian  
2 tribe or tribal organization, including, but not lim-  
3 ited to, funds provided under such sections, or under  
4 any other provision of law, for transportation costs;

5 “(2) to the extent requested by such Indian  
6 tribe or tribal organization, the total amount of  
7 funds provided from operations and maintenance ac-  
8 counts and, notwithstanding section 105 of the In-  
9 dian Self-Determination Act, or any other provision  
10 of law, other facilities accounts for such schools for  
11 such fiscal year (including but not limited to those  
12 referenced under section 1126(d) of the Education  
13 Amendments of 1978 or any other law); and

14 “(3) the total amount of funds that are allo-  
15 cated to such schools for such fiscal year under—

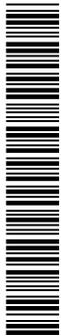
16 “(A) title I of the Elementary and Sec-  
17 ondary Education Act of 1965;

18 “(B) the Individuals with Disabilities Edu-  
19 cation Act; and

20 “(C) any other Federal education law, that  
21 are allocated to such schools for such fiscal  
22 year.

23 “(b) SPECIAL RULES.—

24 “(1) IN GENERAL.—(A) Funds allocated to a  
25 tribally controlled school by reason of paragraph (1)



## IV-175

1 or (2) of subsection (a) shall be subject to the provi-  
2 sions of this part and shall not be subject to any ad-  
3 ditional restriction, priority, or limitation that is im-  
4 posed by the Bureau with respect to funds provided  
5 under—

6 “(i) title I of the Elementary and Sec-  
7 ondary Education Act of 1965;

8 “(ii) the Individuals with Disabilities Edu-  
9 cation Act; or

10 “(iii) any Federal education law other than  
11 title XI of the Education Amendments of 1978.

12 “(B) Indian tribes and tribal organizations to  
13 which grants are provided under this part, and trib-  
14 ally controlled schools for which such grants are pro-  
15 vided, shall not be subject to any requirements, obli-  
16 gations, restrictions, or limitations imposed by the  
17 Bureau that would otherwise apply solely by reason  
18 of the receipt of funds provided under any law re-  
19 ferred to in clause (i), (ii) or (iii) of subparagraph  
20 (A).

21 “(2) SCHOOLS CONSIDERED CONTRACT  
22 SCHOOLS.—Tribally controlled schools for which  
23 grants are provided under this part shall be treated  
24 as contract schools for the purposes of allocation of



## IV-176

1 funds under sections 1126(d), 1127, and 1128 of  
2 the Education Amendments of 1978.

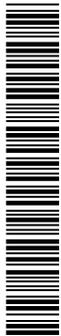
3 “(3) SCHOOLS CONSIDERED BUREAU  
4 SCHOOLS.—Tribally controlled schools for which  
5 grants are provided under this chapter shall be  
6 treated as Bureau schools for the purposes of alloca-  
7 tion of funds provided under—

8 “(A) title I of the Elementary and Sec-  
9 ondary Education Act of 1965;

10 “(B) the Individuals with Disabilities Edu-  
11 cation Act; and

12 “(C) any other Federal education law, that  
13 are distributed through the Bureau.

14 “(4) ACCOUNTS; USE OF CERTAIN FUNDS.—(A)  
15 Notwithstanding section 5204(a)(2), with respect to  
16 funds from facilities improvement and repair, alter-  
17 ation and renovation (major or minor), health and  
18 safety, or new construction accounts included in the  
19 grant under section 5204(a), the grantee shall main-  
20 tain a separate account for such funds. At the end  
21 of the period designated for the work covered by the  
22 funds received, the grantee shall submit to the Sec-  
23 retary a separate accounting of the work done and  
24 the funds expended to the Secretary. Funds received  
25 from these accounts may only be used for the pur-



## IV-177

1 pose for which they were appropriated and for the  
2 work encompassed by the application or submission  
3 under which they were received.

4 “(B) Notwithstanding subparagraph (A), a  
5 school receiving a grant under this part for facilities  
6 improvement and repair may use such grant funds  
7 for new construction if the tribal government or  
8 other organization provides funding for the new con-  
9 struction equal to at least 25 percent of the total  
10 cost of such new construction.

11 “(C) Where the appropriations measure or the  
12 application submission does not stipulate a period  
13 for the work covered by the funds so designated, the  
14 Secretary and the grantee shall consult and deter-  
15 mine such a period prior to the transfer of the  
16 funds. A period so determined may be extended  
17 upon mutual agreement of the Secretary and the  
18 grantee.

19 “(5) ENFORCEMENT OF REQUEST TO INCLUDE  
20 FUNDS.—If the Secretary fails to carry out a re-  
21 quest made under subsection (a)(2) within 180 days  
22 of a request filed by an Indian tribe or tribal organi-  
23 zation to include in such tribe or organization’s  
24 grant the funds described in subsection (a)(2), the  
25 Secretary shall be deemed to have approved such re-



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1 quest and the Secretary shall immediately amend  
2 the grant accordingly. Such tribe or organization  
3 may enforce its rights under subsection (a)(2) and  
4 this paragraph, including any denial or failure to act  
5 on such tribe or organization's request, pursuant to  
6 the disputes authority described in section 2509(e).

7 **“SEC. 5206. ELIGIBILITY FOR GRANTS.**

8 “(a) RULES.—

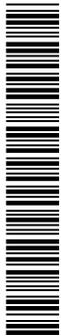
9 “(1) IN GENERAL.—A tribally controlled school  
10 is eligible for assistance under this part if the  
11 school—

12 “(A) on April 28, 1988, was a contract  
13 school under title XI of the Education Amend-  
14 ments of 1978 and the tribe or tribal organiza-  
15 tion operating the school submits to the Sec-  
16 retary a written notice of election to receive a  
17 grant under this part;

18 “(B) was a Bureau operated school under  
19 title XI of the Education Amendments of 1978  
20 and has met the requirements of subsection (b);

21 “(C) is a school for which the Bureau has  
22 not provided funds, but which has met the re-  
23 quirements of subsection (c); or

24 “(D) is a school with respect to which an  
25 election has been made under paragraph (2)



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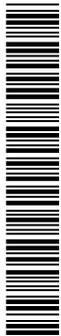
1 and which has met the requirements of sub-  
2 section (b).

3 “(2) Any application which has been submitted  
4 under the Indian Self-Determination and Education  
5 Assistance Act by an Indian tribe for a school which  
6 is not in operation on the date of enactment of the  
7 Student Results Act of 1999 shall be reviewed under  
8 the guidelines and regulations for applications sub-  
9 mitted under the Indian Self-Determination and  
10 Education Assistance Act that were in effect at the  
11 time the application was submitted, unless the In-  
12 dian tribe or tribal organization elects to have the  
13 application reviewed under the provisions of sub-  
14 section (b).

15 “(b) ADDITIONAL REQUIREMENTS FOR BUREAU  
16 FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

17 “(1) BUREAU FUNDED SCHOOLS.—A school  
18 that was a Bureau funded school under title XI of  
19 the Education Amendments of 1978 on the date of  
20 enactment of the Student Results Act of 1999, and  
21 any school with respect to which an election is made  
22 under subsection (a)(2), meets the requirements of  
23 this subsection if—

24 “(A) the Indian tribe or tribal organization  
25 that operates, or desires to operate, the school



## IV-180

1 submits to the Secretary an application request-  
2 ing that the Secretary—

3 “(i) transfer operation of the school to  
4 the Indian tribe or tribal organization, if  
5 the Indian tribe or tribal organization is  
6 not already operating the school; and

7 “(ii) make a determination as to  
8 whether the school is eligible for assistance  
9 under this part; and

10 “(B) the Secretary makes a determination  
11 that the school is eligible for assistance under  
12 this part.

13 “(2) CERTAIN ELECTING SCHOOLS.—(A) By  
14 not later than the date that is 120 days after the  
15 date on which an application is submitted to the  
16 Secretary under paragraph (1)(A), the Secretary  
17 shall determine—

18 “(i) in the case of a school which is not  
19 being operated by the Indian tribe or tribal or-  
20 ganization, whether to transfer operation of the  
21 school to the Indian tribe or tribal organization;  
22 and

23 “(ii) whether the school is eligible for as-  
24 sistance under this part.



## IV-181

1           “(B) In considering applications submitted  
2 under paragraph (1)(A), the Secretary—

3           “(i) shall transfer operation of the school  
4 to the Indian tribe or tribal organization, if the  
5 tribe or tribal organization is not already oper-  
6 ating the school; and

7           “(ii) shall determine that the school is eli-  
8 gible for assistance under this part, unless the  
9 Secretary finds by clear and convincing evidence  
10 that the services to be provided by the Indian  
11 tribe or tribal organization will be deleterious to  
12 the welfare of the Indians served by the school.

13           “(C) In considering applications submitted  
14 under paragraph (1)(A), the Secretary shall consider  
15 whether the Indian tribe or tribal organization would  
16 be deficient in operating the school with respect to—

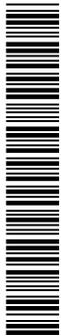
17           “(i) equipment;

18           “(ii) bookkeeping and accounting proce-  
19 dures;

20           “(iii) ability to adequately manage a  
21 school; or

22           “(iv) adequately trained personnel.

23           “(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL  
24 WHICH IS NOT A BUREAU FUNDED SCHOOL.—



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1           “(1) IN GENERAL.—A school which is not a Bu-  
2           reau funded school under title XI of the Education  
3           Amendments of 1978 meets the requirements of this  
4           subsection if—

5                   “(A) the Indian tribe or tribal organization  
6                   that operates, or desires to operate, the school  
7                   submits to the Secretary an application request-  
8                   ing a determination by the Secretary as to  
9                   whether the school is eligible for assistance  
10                  under this part; and

11                   “(B) the Secretary makes a determination  
12                   that a school is eligible for assistance under this  
13                   part.

14           “(2) DEADLINE FOR DETERMINATION BY SEC-  
15           RETARY.—(A) By not later than the date that is  
16           180 days after the date on which an application is  
17           submitted to the Secretary under paragraph (1)(A),  
18           the Secretary shall determine whether the school is  
19           eligible for assistance under this part.

20                   “(B) In making the determination under sub-  
21                   paragraph (A), the Secretary shall give equal consid-  
22                   eration to each of the following factors:

23                           “(i) with respect to the applicant’s  
24                           proposal—



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1           “(I) the adequacy of facilities or the  
2 potential to obtain or provide adequate fa-  
3 cilities;

4           “(II) geographic and demographic fac-  
5 tors in the affected areas;

6           “(III) adequacy of the applicant’s pro-  
7 gram plans;

8           “(IV) geographic proximity of com-  
9 parable public education; and

10           “(V) the needs as expressed by all af-  
11 fected parties, including but not limited to  
12 students, families, tribal governments at  
13 both the central and local levels, and  
14 school organizations; and

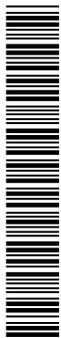
15           “(ii) with respect to all education services  
16 already available—

17           “(I) geographic and demographic fac-  
18 tors in the affected areas;

19           “(II) adequacy and comparability of  
20 programs already available;

21           “(III) consistency of available pro-  
22 grams with tribal education codes or tribal  
23 legislation on education; and

24           “(IV) the history and success of these  
25 services for the proposed population to be



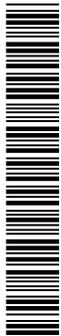
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1 served, as determined from all factors in-  
2 cluding, if relevant, standardized examina-  
3 tion performance.

4 “(C) The Secretary may not make a  
5 determination under this paragraph that is  
6 primarily based upon the geographic prox-  
7 imity of comparable public education.

8 “(D) Applications submitted under  
9 paragraph (1)(A) shall include information  
10 on the factors described in subparagraph  
11 (B)(i), but the applicant may also provide  
12 the Secretary such information relative to  
13 the factors described in subparagraph  
14 (B)(ii) as the applicant considers appro-  
15 priate.

16 “(E) If the Secretary fails to make a  
17 determination under subparagraph (A)  
18 with respect to an application within 180  
19 days after the date on which the Secretary  
20 received the application, the Secretary  
21 shall be treated as having made a deter-  
22 mination that the tribally controlled school  
23 is eligible for assistance under the title and  
24 the grant shall become effective 18 months  
25 after the date on which the Secretary re-



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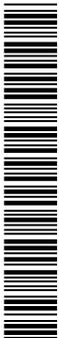
1                   ceived the application, or on an earlier  
2                   date, at the Secretary's discretion.

3           “(d) FILING OF APPLICATIONS AND REPORTS.—

4                   “(1) IN GENERAL.—All applications and reports  
5                   submitted to the Secretary under this part, and any  
6                   amendments to such applications or reports, shall be  
7                   filed with the agency or area education officer des-  
8                   ignated by the Director of the Office of Indian Edu-  
9                   cation Programs of the Bureau of Indian Affairs.  
10                  The date on which such filing occurs shall, for pur-  
11                  poses of this part, be treated as the date on which  
12                  the application or amendment was submitted to the  
13                  Secretary.

14                  “(2) SUPPORTING DOCUMENTATION.—Any ap-  
15                  plication that is submitted under this chapter shall  
16                  be accompanied by a document indicating the action  
17                  taken by the tribal governing body in authorizing  
18                  such application.

19                  “(e) EFFECTIVE DATE FOR APPROVED APPLICA-  
20                  TIONS.—Except as provided by subsection (c)(2)(E), a  
21                  grant provided under this part, and any transfer of the  
22                  operation of a Bureau school made under subsection (b),  
23                  shall become effective beginning the academic year suc-  
24                  ceeding the fiscal year in which the application for the



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1 grant or transfer is made, or at an earlier date determined  
2 by the Secretary.

3 “(f) DENIAL OF APPLICATIONS.—

4 “(1) Whenever the Secretary refuses to approve  
5 a grant under this chapter, to transfer operation of  
6 a Bureau school under subsection (b), or determines  
7 that a school is not eligible for assistance under this  
8 part, the Secretary shall—

9 “(A) state the objections in writing to the  
10 tribe or tribal organization within the allotted  
11 time;

12 “(B) provide assistance to the tribe or trib-  
13 al organization to overcome all stated objec-  
14 tions.

15 “(C) at the request of the tribe or tribal  
16 organization, provide the tribe or tribal organi-  
17 zation a hearing on the record under the same  
18 rules and regulations that apply under the In-  
19 dian Self-Determination and Education Assist-  
20 ance Act; and

21 “(D) provide an opportunity to appeal the  
22 objection raised.

23 “(2) The Secretary shall reconsider any amend-  
24 ed application submitted under this part within 60



## IV-187

1 days after the amended application is submitted to  
2 the Secretary.

3 “(g) REPORT.—The Bureau shall submit an annual  
4 report to the Congress on all applications received, and  
5 actions taken (including the costs associated with such ac-  
6 tions), under this section at the same time that the Presi-  
7 dent is required to submit to Congress the budget under  
8 section 1105 of title 31.

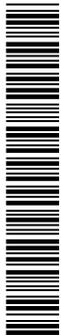
9 **“SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.**

10 “(a) IN GENERAL.—If the Secretary determines that  
11 a tribally controlled school is eligible for assistance under  
12 this part, the eligibility determination shall remain in ef-  
13 fect until the determination is revoked by the Secretary,  
14 and the requirements of subsection (b) or (c) of section  
15 5206, if applicable, shall be considered to have been met  
16 with respect to such school until the eligibility determina-  
17 tion is revoked by the Secretary.

18 “(b) ANNUAL REPORTS.—

19 “(1) IN GENERAL.—Each recipient of a grant  
20 provided under this part shall complete an annual  
21 report which shall be limited to—

22 “(A) an annual financial statement report-  
23 ing revenue and expenditures as defined by the  
24 cost accounting established by the grantee;



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1           “(B) an annual financial audit conducted  
2           pursuant to the standards of the Single Audit  
3           Act of 1984;

4           “(C) an annual submission to the Sec-  
5           retary of the number of students served and a  
6           brief description of programs offered under the  
7           grant; and

8           “(D) a program evaluation conducted by  
9           an impartial evaluation review team, to be  
10          based on the standards established for purposes  
11          of subsection (c)(1)(A)(ii).

12          “(2) EVALUATION REVIEW TEAMS.—Where ap-  
13          propriate, other tribally controlled schools and rep-  
14          resentatives of tribally controlled community colleges  
15          shall make up members of the evaluation review  
16          teams.

17          “(3) EVALUATIONS.—In the case of a school  
18          which is accredited, evaluations will be conducted at  
19          intervals under the terms of accreditation.

20          “(4) SUBMISSION OF REPORT.—

21                 “(A) TO TRIBALLY GOVERNING BODY.—  
22                 Upon completion of the report required under  
23                 paragraph (a), the recipient of the grant shall  
24                 send (via first class mail, return receipt re-  
25                 quested) a copy of such annual report to the



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1 tribal governing body (as defined in section  
2 1132(f) of the Education Amendments of 1978)  
3 of the tribally controlled school.

4 “(B) TO SECRETARY.—Not later than 30  
5 days after receiving written confirmation that  
6 the tribal governing body has received the re-  
7 port send pursuant to subsection (A), the re-  
8 cipient of the grant shall send a copy of the re-  
9 port to the Secretary.

10 “(c) REVOCATION OF ELIGIBILITY.—

11 “(1) IN GENERAL.—(A) The Secretary shall not  
12 revoke a determination that a school is eligible for  
13 assistance under this part if—

14 “(i) the Indian tribe or tribal organization  
15 submits the reports required under subsection  
16 (b) with respect to the school; and

17 “(ii) at least one of the following sub-  
18 clauses applies with respect to the school:

19 “(I) The school is certified or accred-  
20 ited by a State or regional accrediting as-  
21 sociation or is a candidate in good stand-  
22 ing for such accreditation under the rules  
23 of the State or regional accrediting asso-  
24 ciation, showing that credits achieved by  
25 the students within the education pro-



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1           grams are, or will be, accepted at grade  
2           level by a State certified or regionally ac-  
3           credited institution.

4                   “(II) A determination made by the  
5           Secretary that there is a reasonable expect-  
6           ation that the accreditation described in  
7           subclause (I), or the candidacy in good  
8           standing for such accreditation, will be  
9           reached by the school within 3 years and  
10          that the program offered by the school is  
11          beneficial to the Indian students.

12                   “(III) The school is accredited by a  
13          tribal department of education if such ac-  
14          creditation is accepted by a generally rec-  
15          ognized regional or State accreditation  
16          agency.

17                   “(IV) The schools accept the stand-  
18          ards promulgated under section 1121 of  
19          the Education Amendments of 1978 and  
20          an evaluation of performance is conducted  
21          under this section in conformance with the  
22          regulations pertaining to Bureau operated  
23          schools by an impartial evaluator chosen  
24          by the grantee, but no grantee shall be re-  
25          quired to comply with these standards to a



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1 higher degree than a comparable Bureau  
2 operated school.

3 “(V) A positive evaluation of the  
4 school is conducted by an impartial eval-  
5 uator agreed upon by the Secretary and  
6 the grantee every 2 years under standards  
7 adopted by the contractor under a contract  
8 for a school entered into under the Indian  
9 Self-Determination and Education Assist-  
10 ance Act (or revisions of such standards  
11 agreed to by the Secretary and the grant-  
12 ee) prior to the date of enactment of this  
13 Act. If the Secretary and the grantee other  
14 than the tribal governing body fail to agree  
15 on such an evaluator, the tribal governing  
16 body shall choose the evaluator or perform  
17 the evaluation. If the Secretary and a  
18 grantee which is the tribal governing body  
19 fail to agree on such an evaluator, this  
20 subclause shall not apply.

21 “(B) The choice of standards employed for the  
22 purpose of subparagraph (A)(ii) shall be consistent  
23 with section 1121(e) of the Education Amendments  
24 of 1978.



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1           “(2) NOTICE REQUIREMENTS FOR REVOCA-  
2           TION.—The Secretary shall not revoke a determina-  
3           tion that a school is eligible for assistance under this  
4           part, or reassume control of a school that was a Bu-  
5           reau school prior to approval of an application sub-  
6           mitted under section 5206(b)(1)(A) until the  
7           Secretary—

8                   “(A) provides notice to the tribally con-  
9                   trolled school and the tribal governing body  
10                  (within the meaning of section 1141(14) of the  
11                  Education Amendments of 1978) of the tribally  
12                  controlled school which states—

13                           “(i) the specific deficiencies that led  
14                           to the revocation or resumption determina-  
15                           tion; and

16                           “(ii) the actions that are needed to  
17                           remedy such deficiencies; and

18                           “(B) affords such authority an opportunity  
19                           to effect the remedial actions.

20           “(3) TECHNICAL ASSISTANCE.—The Secretary  
21           shall provide such technical assistance as is prac-  
22           ticable to effect such remedial actions. Such notice  
23           and technical assistance shall be in addition to a  
24           hearing and appeal to be conducted pursuant to the  
25           regulations described in section 5206(f)(1)(C).



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1       “(d) APPLICABILITY OF SECTION PURSUANT TO  
2 ELECTION UNDER SECTION 5209(b).—With respect to a  
3 tribally controlled school which receives assistance under  
4 this part pursuant to an election made under section  
5 5209(b)—

6           “(1) subsection (b) of this section shall apply;  
7       and

8           “(2) the Secretary may not revoke eligibility for  
9       assistance under this part except in conformance  
10       with subsection (c) of this section.

11 **“SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.**

12       “(a) PAYMENTS.—

13           “(1) IN GENERAL.—Except as otherwise pro-  
14       vided in this subsection, the Secretary shall make  
15       payments to grantees under this part in 2 payments,  
16       of which—

17           “(A) the first payment shall be made not  
18       later than July 15 of each year in an amount  
19       equal to 85 percent of the amount which the  
20       grantee was entitled to receive during the pre-  
21       ceding academic year; and;

22           “(B) the second payment, consisting of the  
23       remainder to which the grantee is entitled for  
24       the academic year, shall be made not later than  
25       December 1 of each year.



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1           “(2) NEWLY FUNDED SCHOOLS.—For any  
2 school for which no payment under this part was  
3 made from Bureau funds in the preceding academic  
4 year, full payment of the amount computed for the  
5 first academic year of eligibility under this part shall  
6 be made not later than December 1 of the academic  
7 year.

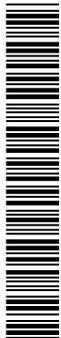
8           “(3) LATE FUNDING.—With regard to funds for  
9 grantees that become available for obligation on Oc-  
10 tober 1 of the fiscal year for which such funds are  
11 appropriated, the Secretary shall make payments to  
12 grantees not later than December 1 of the fiscal  
13 year.

14           “(4) APPLICABILITY OF CERTAIN TITLE 31 PRO-  
15 VISIONS.—The provisions of chapter 39 of Title 31,  
16 United States Code, shall apply to the payments re-  
17 quired to be made by paragraphs (1), (2), and (3).

18           “(5) RESTRICTIONS.—Paragraphs (1), (2), and  
19 (3) shall be subject to any restriction on amounts of  
20 payments under this part that are imposed by a con-  
21 tinuing resolution or other Act appropriating the  
22 funds involved.

23           “(b) INVESTMENT OF FUNDS.—

24           “(1) TREATMENT OF INTEREST AND INVEST-  
25 MENT INCOME.—Notwithstanding any other provi-



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1 sion of law, any interest or investment income that  
2 accrues to any funds provided under this part after  
3 such funds are paid to the Indian tribe or tribal or-  
4 ganization and before such funds are expended for  
5 the purpose for which such funds were provided  
6 under this part shall be the property of the Indian  
7 tribe or tribal organization and shall not be taken  
8 into account by any officer or employee of the Fed-  
9 eral Government in determining whether to provide  
10 assistance, or the amount of assistance, under any  
11 provision of Federal law. Such interest income shall  
12 be spent on behalf of the school.

13 “(2) PERMISSIBLE INVESTMENTS.—Funds pro-  
14 vided under this part may be invested by the Indian  
15 tribe or tribal organization before such funds are ex-  
16 pended for the purposes of this part so long as such  
17 funds are—

18 “(A) invested by the Indian tribe or tribal  
19 organization only in obligations of the United  
20 States, or in obligations or securities that are  
21 guaranteed or insured by the United States, or  
22 mutual (or other) funds registered with the Se-  
23 curities and Exchange Commission and which  
24 only invest in obligations of the United States,



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1 or securities that are guaranteed or insured by  
2 the United States; or

3 “(B) deposited only into accounts that are  
4 insure by and agency or instrumentality of the  
5 United States, or are fully collateralized to en-  
6 sure protection of the funds, even in the event  
7 of a bank failure.

8 “(c) RECOVERIES.—For the purposes of under-  
9 recovery and overrecovery determinations by any Federal  
10 agency for any other funds, from whatever source derived,  
11 funds received under this part shall not be taken into con-  
12 sideration.

13 **“SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-  
14 DETERMINATION AND EDUCATION ASSIST-  
15 ANCE ACT.**

16 “(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—  
17 The following provisions of the Indian Self-Determination  
18 and Education Assistance Act (and any subsequent revi-  
19 sions thereto or renumbering thereof), shall apply to  
20 grants provided under this part:

21 “(1) Section 5(f) (relating to single agency  
22 audit).

23 “(2) Section 6 (relating to criminal activities;  
24 penalties).



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1           “(3) Section 7 (relating to wage and labor  
2 standards).

3           “(4) Section 104 (relating to retention of Fed-  
4 eral employee coverage).

5           “(5) Section 105(f) (relating to Federal prop-  
6 erty).

7           “(6) Section 105(k) (relating to access to Fed-  
8 eral sources of supply).

9           “(7) Section 105(l) (relating to lease of facility  
10 used for administration and delivery of services).

11           “(8) Section 106(f) (relating to limitation on  
12 remedies relating to cost allowances).

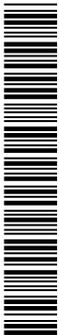
13           “(9) Section 106(j) (relating to use of funds for  
14 matching or cost participation requirements).

15           “(10) Section 106(k) (relating to allowable uses  
16 of funds).

17           “(11) Section 108(e) Model Agreements provi-  
18 sions (A)(5) (relating to limitations of costs), (A)(7)  
19 (relating to records and monitoring), (A)(8) (relat-  
20 ing to property); and (A)(9) (relating to availability  
21 of funds).

22           “(12) Section 109 (relating to sovereign immu-  
23 nity and trusteeship rights unaffected).

24           “(b) ELECTION FOR GRANT IN LIEU OF CON-  
25 TRACT.—



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1           “(1) Contractors for activities to which this  
2 part applies who have entered into a contract under  
3 the Indian Self-Determination and Education Assist-  
4 ance Act that is in effect upon the date of enactment  
5 of the Student Results Act of 1999 may, by giving  
6 notice to the Secretary, elect to have the provisions  
7 of this part apply to such activity in lieu of such  
8 contract.

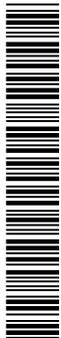
9           “(2) Any election made under paragraph (1)  
10 shall take effect on the later of—

11           “(A) October 1 of the fiscal year suc-  
12 ceeding the fiscal year in which such election is  
13 made; or

14           “(B) 60 days after the date of such elec-  
15 tion.

16           “(3) In any case in which the 60-day period re-  
17 ferred to in paragraph (2)(B) is less than 60 days  
18 before the beginning of the succeeding fiscal year,  
19 such election shall not take effect until the fiscal  
20 year after the fiscal year succeeding the election.

21           “(c) NO DUPLICATION.—No funds may be provided  
22 under any contract entered into under the Indian Self-De-  
23 termination and Education Assistance Act to pay any ex-  
24 penses incurred in providing any program or services if



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1 a grant has been made under this part to pay such ex-  
2 penses.

3 “(d) TRANSFERS AND CARRYOVERS.—

4 “(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATE-  
5 RIALS.—A tribe or tribal organization assuming the  
6 operation of—

7 “(A) a Bureau school with assistance  
8 under this part shall be entitled to the transfer  
9 or use of buildings, equipment, supplies, and  
10 materials to the same extent as if it were con-  
11 tracting under the Indian Self-Determination  
12 and Education Assistance Act; or

13 “(B) a contract school with assistance  
14 under this part shall be entitled to the transfer  
15 or use of buildings, equipment, supplies and  
16 materials that were used in the operation of the  
17 contract school to the same extent as if it were  
18 contracting under the Indian Self-Determina-  
19 tion and Education Assistance Act

20 “(2) FUNDS.—Any tribe or tribal organization  
21 which assumes operation of a Bureau school with as-  
22 sistance under this part and any tribe or tribal orga-  
23 nization which elects to operate a school with assist-  
24 ance under this part rather than to continue as a  
25 contract school shall be entitled to any funds which



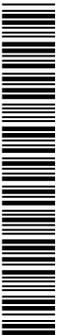
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1 would carryover from the previous fiscal year as if  
2 such school were operated as a contract school.

3 “(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any  
4 exception or problem cited in an audit conducted pursuant  
5 to section 5207(b)(2), any dispute regarding a grant au-  
6 thorized to be made pursuant to this part or any amend-  
7 ment to such grant, and any dispute involving an adminis-  
8 trative cost grant under section 1128 of the Education  
9 Amendments of 1978 shall be administered under the pro-  
10 visions governing such exceptions, problems, or disputes  
11 in the case of contracts under the Indian Self-Determina-  
12 tion and Education Assistance Act of 1975. The Equal  
13 Access to Justice Act shall apply to administrative appeals  
14 filed after September 8, 1988, by grantees regarding a  
15 grant under this part, including an administrative cost  
16 grant.

17 **“SEC. 5210. ROLE OF THE DIRECTOR.**

18 “Applications for grants under this part, and all ap-  
19 plication modifications, shall be reviewed and approved by  
20 personnel under the direction and control of the Director  
21 of the Office of Indian Education Programs. Required re-  
22 ports shall be submitted to education personnel under the  
23 direction and control of the Director of such Office.



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1 **“SEC. 5211. REGULATIONS.**

2 “The Secretary is authorized to issue regulations re-  
3 lating to the discharge of duties specifically assigned to  
4 the Secretary by this part. In all other matters relating  
5 to the details of planning, development, implementing, and  
6 evaluating grants under this part, the Secretary shall not  
7 issue regulations. Regulations issued pursuant to this part  
8 shall not have the standing of a Federal statute for the  
9 purposes of judicial review.

10 **“SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL**  
11 **ENDOWMENT PROGRAM.**

12 “(a) IN GENERAL.—

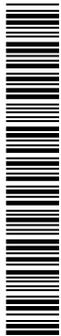
13 “(1)(A) Each school receiving grants under this  
14 part may establish, at a Federally insured banking  
15 and savings institution, a trust fund for the pur-  
16 poses of this section.

17 “(B) The school may provide—

18 “(i) for the deposit into the trust fund,  
19 only funds from non-Federal sources, except  
20 that the interest on funds received from grants  
21 under this part may be used for this purpose;

22 “(ii) for the deposit in the account of any  
23 earnings on funds deposited in the account; and

24 “(iii) for the sole use of the school any  
25 noncash, in-kind contributions of real or per-



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1           sonal property, such property may at any time  
2           be converted to cash.

3           “(b) INTEREST.—Interest from the fund established  
4 under subsection (a) may periodically be withdrawn and  
5 used, at the discretion of the school, to defray any ex-  
6 penses associated with the operation of the school.

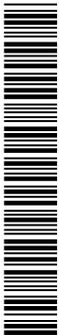
7   **“SEC. 5213. DEFINITIONS.**

8           “For the purposes of this part:

9           “(1) BUREAU.—The term ‘Bureau’ means the  
10 Bureau of Indian Affairs of the Department of the  
11 Interior.

12           “(2) ELIGIBLE INDIAN STUDENT.—The term  
13 ‘eligible Indian student’ has the meaning of such  
14 term in section 1127(f) of the Education Amend-  
15 ments of 1978.

16           “(3) INDIAN TRIBE.—The term ‘Indian tribe’  
17 means any Indian tribe, band, nation, or other orga-  
18 nized group or community, including Alaska Native  
19 Village or regional corporations (as defined in or es-  
20 tablished pursuant to the Alaskan Native Claims  
21 Settlement Act, which is recognized as eligible for  
22 the special programs and services provided by the  
23 United States to Indians because of their status as  
24 Indians.



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1           “(4) LOCAL EDUCATIONAL AGENCY.—The term  
2           a ‘local educational agency’ means a public board of  
3           education or other public authority legally con-  
4           stituted within a State for either administrative con-  
5           trol or direction of, or to perform a service function  
6           for, public elementary or secondary schools in a city,  
7           county, township, school district, or other political  
8           subdivision of a State or such combination of school  
9           districts or counties as are recognized in a State as  
10          an administrative agency for its public elementary or  
11          secondary schools. Such term includes any other  
12          public institution or agency having administrative  
13          control and direction of a public elementary or sec-  
14          ondary school.

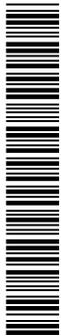
15           “(5) SECRETARY.—The term ‘Secretary’ means  
16          the Secretary of the Interior.

17           “(6) TRIBAL ORGANIZATION.—(A) The term  
18          ‘tribal organization’ means—

19                   “(i) the recognized governing body of any  
20                  Indian tribe; or

21                   “(ii) any legally established organization of  
22                  Indians which—

23                           “(I) is controlled, sanctioned, or char-  
24                          tered by such governing body or is demo-  
25                          cratically elected by the adult members of



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1 the Indian community to be served by such  
2 organization; and

3 “(II) includes the maximum participa-  
4 tion of Indians in all phases of its activi-  
5 ties.

6 “(B) In any case in which a grant is provided  
7 under this part to an organization to provide serv-  
8 ices benefiting more than one Indian tribe, the ap-  
9 proval of the governing bodies of Indian tribes rep-  
10 resenting 80 percent of those students attending the  
11 tribally controlled school shall be considered a suffi-  
12 cient tribal authorization for such grant.

13 “(7) TRIBALLY CONTROLLED SCHOOL.—The  
14 term ‘tribally controlled school’ means a school oper-  
15 ated by a tribe or a tribal organization, enrolling  
16 students in kindergarten through grade 12, includ-  
17 ing preschools, which is not a local educational agen-  
18 cy and which is not directly administered by the Bu-  
19 reau of Indian Affairs.”.

